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# Federal Register

Thursday
September 10, 1981

## Highlights

**Briefing on How To Use the Federal Register**—For details on briefing in Lexington, Ky., see announcement in the Reader Aids section at the end of this issue.



CONTINUED INSIDE

# Highlights

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## HEARINGS



## CHANGED HEARING

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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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# Presidential Documents

Title 3—

The President

Proclamation 4856 of September 8, 1981

## Death of Roy Wilkins

By the President of the United States of America

A Proclamation

*To the People of the United States:*

With sadness, I announce the death of Roy Wilkins who died today in New York City.

Roy Wilkins worked for equality, spoke for freedom, and marched for justice. His quiet and unassuming manner masked his tremendous passion for civil and human rights.

He once said, "The heritage of a man of peace will endure and shine into the darkness of this world." Although Roy Wilkins' death darkens our day, the accomplishments of his life will continue to endure and shine forth.

As a mark of respect for the memory of Roy Wilkins, I hereby order that the flag of the United States shall be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until his interment. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

Editorial Note: The President's statement of September 8, 1981, concerning the death of Roy Wilkins, is printed in the *Weekly Compilation of Presidential Documents* (vol. 17, no. 37).

[FR Doc. 81-26616
Filed 9-9-81; 10:15 am]
Billing code 3195-01-M

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 908

[Valencia Orange Reg. 680; Valencia Orange Reg. 679, Amdt. 1]

## Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 11–17, 1981, and increases the quantity of such oranges that may be so shipped during the period September 4–10, 1981. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

**DATES:** This regulation becomes effective September 11, 1981, and the amendment is effective for the period September 4–10, 1981.

**FOR FURTHER INFORMATION CONTACT:** William J. Doyle, (202) 447–5975.

**SUPPLEMENTARY INFORMATION:** *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a non-major rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81. The marketing policy was recommended by the committee following discussion at a public meeting on January 27, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–227–5975.

The committee met again publicly on September 8, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges continues to improve.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Forms required for operation under this part are subject to clearance by the office of management and budget and are in the process of review.

## PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 908.980 is added as follows:

§ 908.980 Valencia Orange Regulation 680.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period September 11, 1981, through September 17, 1981, are established as follows:

(a) District 1: 500,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons.

2. Section 908.979 Valencia Orange Regulation 679 (46 FR 44147), is hereby amended to read:

§ 908.979 Valencia Orange Regulation 679.

* * * * *

(a) District 1: 450,000 cartons;
(b) District 2: 350,000 cartons;
(c) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: September 9, 1981.

D. S. Kuryloski,

*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc. 81-26628 Filed 9-9-81; 11:32 am]

BILLING CODE 3410-02-M

## Commodity Credit Corporation

### 7 CFR Part 1446

[Amdt. 2]

## Peanuts; General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule provides for optional methods for the supervision of contract additional peanuts and provides that Segregation 2 or 3 peanuts containing in excess of 10 percent moisture and/or foreign material may be pledged for loan and stored if the producer has made a bona fide effort to clean and dry such peanuts. The purpose of this rule is to simplify compliance requirements and will result in savings to handlers trading in contract additional peanuts. This rule will also permit Segregations 2 and 3 peanuts to be accumulated by Producer Associations before transferring such peanuts to crushing plants, thus resulting in a savings to Commodity Credit Corporation (CCC).

**EFFECTIVE DATE:** September 9, 1981.

**FOR FURTHER INFORMATION CONTACT:** David Kincannon, (202) 447-6734. The Final Regulatory Impact Analysis describing the options considered in developing the final rule and the impact of implementing each option is available upon request.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under USDA procedures and Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "non-major." It has been determined that this rule will not: (1) result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical region; or (2) have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this final rule applies to is: 10.051, as found in the Catalog of Federal Domestic Assistance. This final rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to this subject matter.

A notice that the Department was preparing to make determinations with respect to these provisions was published in the Federal Register on July 9, 1981 [46 FR 35520]. The comment period ended July 28, 1981.

## Handler Supervision

Current regulations governing the exportation of contract additional peanuts provided that quota and additional peanuts may be commingled to facilitate efficient usage of storage facilities. Under presently existing procedures, when additional peanuts are removed from storage they must be physically supervised by inspectors of the applicable peanut association with supervision costs borne by handlers. Such peanuts are sealed at receiving plants and an inspector of the peanut association then personally supervises unloading and all milling and in-plant operations. This supervisory procedure eliminates the flexibility necessary for efficient operations, places significant regulatory burdens on all exporting handlers, indirectly reduces grower income, and directly increases costs to consumers.

The procedures described above were instituted in connection with the implementation of Title VIII of the Food and Agriculture Act of 1977, Pub. L. 95-113, 91 Stat. 944. Title VIII establishes a two-tiered system of marketing peanuts. Under that system, which has been in effect since 1978, only "quota peanuts" are eligible for domestic edible use. "Additional peanuts", (i.e., peanuts grown in excess of the farm's poundage quota) may only be used for crushing for oil or for export.

It is essential to the proper operation of this system that additional peanuts be prevented from being diverted to domestic edible use. To this end, Title VIII directed the Secretary to prescribe procedures for supervising the handling of additional peanuts.

The procedures described above were adopted for the 1978 and subsequent crops of peanuts. At that time, given the total lack of experience with a two-tiered marketing system and the very significant possibility of diversion to domestic edible use, it was determined that strict physical supervision of all additional peanuts was necessary.

The Department now has three years of experience in implementing a two-tiered marketing system. In light of this experience and information received from the peanut industry, it was felt that the supervisory procedure could be modified to lessen the regulatory burden on handlers without detracting from the effectiveness of the supervision program. Therefore, in order to eliminate unnecessary supervision, to minimize expenses to handlers of contract additional peanuts, and to lessen the burden of unnecessary regulations, it was proposed to simplify the procedure for the supervision of contract additional peanuts (See 46 FR 35520). It was proposed to: (1) require on-site supervision during the load out process; (2) require on-site supervision at manufacturing plants where peanuts are being processed into products to be exported; and (3) require on-site supervision for the crushing of the shelled and broken kernels from the shelling of contract additional peanuts to be exported and for contract additional peanuts purchased for domestic crushing. It was further proposed to require handlers to furnish at the time of load out (when the dollar value of the peanuts is established) an irrevocable letter of credit in an amount equal to 120 percent of the quota support rate for all additional peanuts in-store. In addition, at time of load out, samples would be graded and screen sizes determined. A net weight of each screen size would be determined and the handler would be required to export the determined quantities by screen size. When peanuts were exported, handlers would be required to furnish proof that the required quantity of peanuts by screen sizes were exported. When the appropriate documenting evidence is received, the letters of credit would be reduced accordingly.

There were 12 responses to this proposal: 2 from sheller organizations, 2 from manufacturers, 1 from a bank, 6 from shellers, and 1 from a growers' group. Eight respondents favored the proposed changes in the supervision requirements for additional peanuts. Most respondents felt that the operation of the price support program would not be adversely affected and that nonphysical supervision would be less costly and reduce the regulatory burden. One respondent, however, stressed the need for a timely accounting of export liability so that the letter of credit may be reduced accordingly, thus reducing the cost to handlers as well as releasing bank funds for other purposes. Four respondents opposed any change in the supervision requirements. The basic objection to the rule change is that it will make more split peanuts available for the domestic markets while reducing the availability of whole kernels in the same market. It was pointed out that the sample of farmer stock peanuts may show different screen sizes than the actual sheller turnout, especially in the Southwest where dryer conditions can cause more split kernels at the time of shelling. If this happened, handlers would have excess split kernels from shelling which would enter the domestic market and would also have to divert whole kernels from the domestic market in order to meet export obligations for whole kernels.

It was also stressed that this proposed rule would cause hardship to shellers who handle only contract additional peanuts for export. If the handler's actual turnout consisted of fewer whole kernels than his export obligation determined from the sample shelling, the handler would be forced to purchase quota whole kernels on the open market in order to meet his export obligation. It was further pointed out that requiring all shellers to change to nonphysical supervision would involve changing the rules just before the harvest season when contracts have already been made with producers for their contract additional peanuts and export obligations have been established. One respondent suggested two alternatives

to the proposal. The first alternate proposal would provide that export obligations be established on the basis of the average outturns for both quota and additional peanuts, that the handler be bonded for compliance, and that handlers show proof of export. This method was not adopted since this would involve a detailed audit of the handler's records and would increase CCC's operating expenses. Also, it was determined that a bond would not provide adequate protection in the event additional peanuts entered the domestic market contrary to the applicable statute and regulations since it has been the Department's experience that recovery on bonds has been administratively difficult. The second suggested alternative was that the proposed method of supervision be adopted as an optional method of supervision, and that a handler be given a choice as to which supervision method he chooses in his plant.

After careful consideraton of the comments submitted, it has been determined that the current method of physical supervision will be retained as one option and the proposed method of nonphysical supervison will be implemented as an alternative option. Handlers will be able to select one of the two options. This will permit shellers in the Southwest who may incur excess split kernels at time of shelling to select physical supervision and ship only the actual outturns from their plants. It will also permit those shellers who only handle contract additional peanuts to ship the peanuts actually milled from the contract additional peanuts. This final rule will, therefore, permit handlers to obtain the benefits of nonphysical supervision if they so desire, while at the same time taking into account the situation of shellers in the Southwest and shellers who handle only contract additional peanuts.

*Changes in Loan Eligibility Requirements for Segregation 2 and 3 Peanuts Having in Excess of 10 Percent Moisture and/or Foreign Material*

Current regulations provide that Segregation 2 and 3 peanuts containing more than 10 percent moisture and/or foreign material may be pledged as collateral for a price support loan only if such peanuts will not be stored. This eligibility requirement was included in the regulations in order to allow area associations to accept such peanuts in years of extreme quality problems. However, problems have arisen in that in some cases producers have not made an effort to clean and dry such peanuts. This results in peanuts being pledged as collateral for a loan which have excessively high moisture and foreign material content. High moisture peanuts are especially susceptible to deterioration and excess foreign material causes additional expenses in transportation and in crushing. Also, in some cases, peanuts cannot be immediately crushed because of unavailability of crushing facilities, and must be stored for short periods of time.

Therefore, in order to minimize expense to CCC in handling such peanuts and to alleviate the problems described above, it was proposed to amend the regulations to provide that such peanuts can be pledged as collateral for a price support loan provided: (1) the level of moisture does not exceed a level determined appropriate by the Peanut Association; (2) short term temporary storage is available in the area; (3) the local crushing market can crush the peanuts within a reasonable period of time; and (4) the producer has made a bona fide effort to clean and dry the peanuts. This change will not have any impact on the quality control procedures now in effect which prevent low quality or contaminated peanuts from entering the edible market.

There were 9 responses to the proposed change. Seven favored the change and two were opposed. Of the four respondents who were opposed to the proposal, only one specified a reason for his opposition. That respondent felt the limited storage space for farmers stock peanuts would be limited even further by this change. After careful consideration of the comments submitted, the proposed change will be adopted since it will result in a savings to CCC. This provision will not limit storage space, since peanuts will only be stored for short periods of time and only when temporary storage space is available.

Final Rule

Effective for the 1981 and subsequent crops of peanuts, the regulations at 7 CFR Part 1446 are amended as follows:

## PART 1446—PEANUTS

1. Section 1446.8 is amended by revising the introductory paragraph and paragraph (b) to read as follows:

**§ 1446.8 Compliance by handlers of contract additional peanuts.**

All contract additional peanuts acquired by a handler shall be disposed of by domestic crushing or export to an eligible country in accordance with the conditions set forth in these regulations. All handler's records shall be subject to a review by CCC or other representatives of the Secretary to determine compliance with the provision of this subpart. Refusal to make such handler's records available to authorized representatives of the Secretary or the failure of such records submitted to establish such disposition by the handler shall constitute prima facie evidence of noncompliance with this subpart. Reviews shall be made by the Association in accordance with guidelines established by CCC. The Association shall not take any administrative actions concerning program violations prior to notification by the Director, Producer Associations Division, Agricultural Stabilization and Conservation Service (ASCS). Handlers shall have the option, upon prior notification by the handler of the Association, to select one of the two methods of supervision for handling and disposing of contract additional peanuts as provided in §§ 1446.9 and 1446.10. Each handler must select one method of supervision prior to the beginning of processing or loadout of contract additional peanuts and use the method selected to account for the disposition of all contract additional peanuts purchased from producers.

(a) * * *

(b) *Method of determining compliance.*

(1) *Commingled storage.* Handlers may commingle quota loan, quota commercial, additional loan and contract additional peanuts. In such instance, quota loan and additional loan peanuts must be inspected as farmers stock peanuts and settled on a dollar value basis less adjustments for shrinkage except when such peanuts are purchased from the Association for domestic edible and related use on an in-grade, in-weight basis. Contract additional peanuts must be inspected on a farmers stock basis and accounted for on a dollar value basis less a one-time adjustment for shrinkage for each crop equal to 4.0 percent of the dollar value for Virginia type peanuts and 3.5 percent for all other types. However, if the contract additional peanuts are graded out and accounted for prior to February 1, the adjustment shall be 3.5 for Virginia type and 3.0 percent of the dollar value for all other peanuts. Contract additional peanuts shall also be accounted for by screen sizes if the handler elects to use the nonphysical method of supervision.

(2) *Identity preserved storage.* (i) *Physical method of supervision.* Contract additional peanuts stored identity preserved shall be inspected as farmers stock peanuts and settled on a dollar value basis. The handler shall receive, store, and otherwise handle

such peanuts in accordance with good commercial practices.

(ii) *Nonphysical method of supervision.* Contract additional peanuts stored identity preserved shall be inspected as farmers stock peanuts at time of grade out and settled on a dollar value basis less a one time adjustment for shrinkage for each crop equal to 4.0 percent of the dollar value for Virginia type peanuts and 3.5 percent for all other types. However, if the contract additional peanuts are graded out and accounted for prior to February 1, an adjustment shall be made in an amount equal to 3.5 percent for Virginia type and 3.0 percent of the dollar value for all other type peanuts. The handler shall receive, store, and otherwise handle such peanuts in accordance with good commercial practices. Such peanuts shall also be accounted for by screen sizes.

* * * * *

2. Sections 1446.9 through 1446.15 are revised by: (1) redesignating §§ 1446.10 through 1446.15 as §§ 1446.11 through 1446.16 respectively; (2) adding a new § 1446.10 before the subheading "Warehouse Storage Loans"; (3) amending the first paragraph of § 1446.9, and (4) amending § 1446.15(b) (formerly designated § 1446.14(b)), to read as follows:

**§ 1446.9 Physical supervision and handling of contract additional peanuts.**

The Association shall conduct onsite supervision of domestic handling of contract additional peanuts including storing, shelling, crushing, cleaning, weighing, and shipping. By selecting the option of physical supervision as provided in this section, the handler agrees that all of the handler's contract additional peanuts will be handled and accounted for under the provisions of this section.

* * * * *

**§ 1446.10 Nonphysical supervision and handling of contractor additional peanuts.**

The Association shall conduct onsite loadout supervision to ensure that all contract additional peanuts are identified and dollar value and screen sizes determined and such other supervision of domestic handling of contract additional peanuts to the extent necessary to ensure that such peanuts are exported or crushed in accordance with these regulations. By selecting the option of nonphysical supervision as provided in this section, the handler agrees that all of the handler's contract additional peanuts will be handled and accounted for under the provisions of this section.

(a) *Access of facilities.* The handler, by entering into contracts to receive contract additional peanuts, agrees that authorized representative(s) of CCC and the Association:

(1) May enter and remain upon any of the premises when such peanuts are loaded out, weighed, graded and sized as farmers stock contract additional peanuts.

(2) May, if determined necessary by CCC or the Association inspect the premises, facilities, operations, books, and records to determine that such peanuts have been handled in accordance with these regulations.

(3) May supervise the transition from positive lot shelled peanuts to the processing line of the manufacturing plants at which the peanuts will be made into peanut products when such peanuts or peanut products are to be exported as contract additional peanuts.

(4) May supervise and inspect nonedible quality peanuts crushed or exported for crushing.

(b) *Notifying the Association.* The handler (or cleaner, sheller, or processor under contract with the handler) shall notify the Association of the time when dollar value and screen size determinations will begin on farmers stock contract additional peanuts and the approximate period of time required to complete the operation. When a plant is not currently under supervision, the handler shall give at least five working days advance notice to the Association so that supervision can be arranged.

(c) *Special sizing requirements.* The handler shall load out, weigh, grade, and account for all contract additional peanuts on a dollar value basis. A representative sample of peanuts loaded out as contract additional peanuts, from either commingled storaged or identity preserved storage, shall be taken by a Federal or State Inspector during the load out process when dollar value is being determined. The sample shall be graded and the kernels shall be sized to determine the percentages of kernels which ride specified screen sizes. The net weight of each screen size for such peanuts shall be determined by CCC or the Association and the handler shall be obligated to export or crush the determined quantities by screen size in addition to compliance requirements set forth in § 1446.8.

(d) *Furnishing irrevocable letters of credit.* Immediately after dollar value has been determined, the handler shall furnish the Association an irrevocable letter of credit in an amount equal to 120 percent of the quota support value for all contract additional peanuts loaded out. The handler shall not shell or otherwise process any contract additional peanuts until the Association notifies the handler that the letter of credit has been received and accepted. Such a letter of credit shall be issued in a form and by a bank acceptable to CCC. Credit may be given and the letter of credit reduced accordingly for an equivalent quantity of quota peanuts of the same crop, type, area and screen size which have been exported prior to the determination of a handler's contract additional export obligation. The handler shall deliver to the Association satisfactory evidence that such peanuts have been exported in accordance with these regulations. As contract additional peanuts are exported, the handler shall submit to the Association satisfactory documentation as required herein, and upon receipt of such documentation, the letter of credit will be reduced accordingly. Such evidence must be submitted not later than 30 days after the final date for exportation. If satisfactory evidence is not submitted by such date, the Association will draw against the letter of credit the full amount of the marketing penalty applicable to the quantity of peanuts which were not exported.

(e) *Processing.* Shelled peanuts which will be exported as contract additional peanuts, or quota peanuts which will be exported as replacements, shall be identified with positive lot identity tags and shall include shelled screen sizes applicable to the lot and recorded on the inspectors sizing worksheet. In order to be eligible for export credit, positive lot identity must be maintained except as authorized by the Association when peanuts are transported and stored domestically.

(f) *Expense charged to handlers.* All supervision costs shall be borne by handlers.

(g) *Domestic sale or transfer*—(1) *Farmers stock.* The handler must submit contracts covering any domestic sale, transfer, or other disposition of farmers stock contract additional peanuts to the Association and obtain written approval prior to any physical movement of the peanuts from the buying point. Approval of such contracts may be made before or after delivery by the producer. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees in writing to handle and crush, or export, such peanuts as raw peanuts or peanut products in accordance with the terms and conditions of these regulations.

(2) *Milled peanuts.* The handler must submit contracts covering any domestic sale, transfer, or other disposition of milled contract additional peanuts to the

Association and obtain approval prior to any physical movement of the peanuts. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees, in writing, to handle and crush, or export, such peanuts in accordance with the terms and conditions of these regulations.

(h) *Disposal of contract additional peanuts.* Contract additional peanuts may be disposed of by domestic crushing or by exportation to an eligible country as follows:

(1) All kernels may be crushed domestically; or

(2) All kernels may be exported for crushing, if fragmented; or

(3) All kernels that are graded to meet the edible export standards may be exported and the remaining kernels:

(i) Crushed domestically; or

(ii) Exported for crushing if peanuts are fragmented; or

(4) All of the peanuts may be exported as farmers stock peanuts; or

(5) Peanuts may be exported as peanut products if such peanuts meet edible export standards; or

(6) Peanuts may be exported as milled or inshell peanuts.

(i) *Disposal of Meal contaminated by aflatoxin.* All meal produced from peanuts which are crushed domestically and found to be unsuitable for use as feed because of contamination by aflatoxin shall be disposed of for nonfeed purposes only. If the meal is exported, the export bill of lading shall reflect the analysis of the lot by inclusion thereon of the following statement: "This shipment consists of lots of meal which contain aflatoxin ranging from —— to —— PPB and averaging —— PPB."

(j) *Final dates for scheduling supervision.* Contract additional peanuts shall be scheduled for supervision by the Association during the normal marketing period but not later than July 31 following the calendar year in which the crop is grown unless prior approval of a later date is granted by the Association.

(k) *Export provisions.* (1) *General.* Exports to certain countries are regulated by U.S. Department of Commerce regulations and require a validated export license. Additional information concerning the regulations may be obtained from the Bureau of International Commerce or from the field office of the Department of Commerce.

(2) *Export to a U.S. Government agency.* Except for the export of raw peanuts to the military exchange services for processing outside the United States, export of peanuts in any form by or to a United States government agency shall not be considered exportation to an eligible country. However, sales to a foreign government which are financed with funds made available by a United States agency such as the Agency for International Development are not considered sales to a United States government agency: *Provided,* The peanuts were not purchased by the foreign buyer for transfer to a United States agency.

(3) *Exportation of contract additional peanuts.* All contract additional peanuts which are not crushed domestically and which are eligible for export shall be exported to an eligible country as peanuts or peanut products.

(4) *Reentry Transshipment and Liquidated Damages*—(i) *Reentry Transshipment.* Peanuts and peanut products exported shall not be reentered by anyone into the United States in any form or product and shall not be caused by the handler to be diverted or transshipped to other than an eligible country, in any form or product, and if they are reentered, the handler shall be subject to liquidated damages as specified in subparagraph (4)(ii) of this paragraph.

(ii) *Liquidated Damages.* The handler, by entering into contracts to receive contract additional peanuts, agrees that CCC will incur serious and substantial damages to its program to support the price of quota peanuts if contract additional peanuts are exported and later are reentered into the United States or diverted or transshipped to other than an eligible country in any form or product; that the amount of such damages will be difficult, if not impossible, to ascertain exactly; and that the handler shall, with respect to any peanuts or peanut products reentered into the United States or diverted or transshipped to other than an eligible country, pay to CCC, as liquidated damages and not as a penalty, ten cents ($.10) per net pound for such peanuts or peanut products. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such reentry, diversion, or transshippment.

(5) *Evidence of Export.* The handler shall furnish the Association with the following documentary evidence of exportation of peanuts or peanut products not later than 30 days after the date of exportation as provided in § 1446.8(c).

(i) *Export by water.* A nonnegotiable copy of an onboard ocean bill of lading, signed, on behalf of the carrier, showing the date and place of loading onboard vessel, the weight of the peanuts, peanut meal, or products exported, the name of the vessel, the name and address of the exported, and the country of destination. In addition, a copy of the FVQ–184 and a copy of the inspectors special sizing notesheet for each lot shall be furnished. Peanut meal which is unsuitable for use as feed because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(ii) *Export by rail or truck.* A copy of the bill of lading (showing the weight of the peanuts, weight of the peanut meal, or products exported, supplemented by a copy of Shipper's Export Declaration or other documentation acceptable to the Association). In addition, a copy of the FVQ–184 and a copy of the inspectors special sizing notesheet for each lot shall be furnished. Peanut meal which is unsuitable for feed use because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(iii) *Export by air.* A copy of the Airway Bill (showing weight of peanuts, weight of peanut meal or products exported, consignee and shipper) and other documentation acceptable to the Association. In addition, a copy of the FVQ–184 and a copy of the inspectors special sizing notesheet shall be furnished.

(iv) *Certified statement.* A statement signed by the handler specifying the name and address of the consignee and the applicable Bureau license number if exporations have been made to one or more of the countries or areas for which a validated license is required under regulations issued by the Bureau of International Commerce, U.S. Department of Commerce.

(6) *Penalties.* Failure to dispose of contract additional peanuts acquired by a handler for domestic crushing or export by the final date for exportation, failure to obtain supervision from the Association, or failure to properly handle contract additional peanuts by the handler shall constitute noncompliance with the provisions of this subpart. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate on the quantity of the additional peanuts which have not been crushed, exported, supervised, and/or properly handled. Such penalty may be reduced as provided in §§ 1446.8(d) and 1446.8(e).

§ 1446.15 Eligible peanuts.

* * * * *

(b) *Additional support.* Peanuts eligible for additional support are peanuts which meet the following requirements. The peanuts:

(1) Must contain not more than 10 percent moisture;

(2) Must contain not more than 10 percent foreign material, except that such peanuts may contain more foreign material if the handler agrees to purchase such peanuts for domestic edible use as provided in the first sentence of § 1446.7 of these regulations;

(3) If graded Segregation 2 or 3 and contain more than 10 percent moisture and/or foreign material must meet the following criteria: (i) the level of mositure does not exceed a level determined appropriate by the Association; (ii) short term temporary storage is available in the area, as determined by the Association; (iii) the local crushing market for peanuts can crush the peanuts within a reasonable time, as determined by the Association; and (iv) the producer has made a bona fide effort, as determined by the Association, to clean and dry such peanuts prior to offering for loan;

(4) Must be free and clear of all liens and encumbrances, including landlord's lien, or if liens or encumbrances exist on the peanuts, acceptable waivers are obtained;

(5) If delivered to the Association in bags in the Southwestern area, must be in new or thoroughly cleaned used bags which are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, which are free from holes, which are finished at the top with either the selvage edge of the material, binding, or a hem, and which are uniform in size with approximately 2 bushel capacity;

(6) Must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; and

(7) Must have been inspected as farmers stock peanuts and have an official grade determined by an inspector.

In addition to the above requirements, the beneficial interest in the peanuts must be in the producer who delivers them to the Association and must always have been in such producer or a former producer whom such producer succeeded before the peanuts were harvested. In order to meet the requirements of succession, the rights, responsibilities, and interest of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not consitute succession. Any producer in doubt as to whether such interest in the peanuts complies with the requirements of this section should, before applying for price support, make available to the appropriate county Agricultural Stablization and Conservation (ASC) committee all pertinent information which will permit a determination with respect to succession to be made by CCC. Also, if the peanuts are produced on acreage in excess of the effective farm allotment, the marketing penalty with respect to such peanuts must have been collected in accordance with Part 729 of this title.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421); sec. 359, 52 Stat. 31, as amended (7 U.S.C. 1359); and sec. 359, 93 Stat. 81 (7 U.S.C. 1359 note)).

Signed at Washington, D.C., on September 4, 1981.

C. Hoke Leggett,

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 81-26448 Filed 9-9-81; 8:45 am]

BILLING CODE 3410-05-M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Parts 108, 207, and 209

### Aliens and Nationality; Refugee and Asylum Procedures

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Service's interim and related regulations relating to refugee and asylum procedures which were published in the Federal Register on June 2, 1980 and effective June 1, 1980. After considering constructive public comments and experience with implementing the refugee and asylum procedures during the interim period, the Service is publishing final rules which efficiently implement the provisions of the Refugee Act of 1980.

**EFFECTIVE DATE:** October 12, 1981.

**FOR FURTHER INFORMATION CONTACT:**

For general information—Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C., 20536, Telephone: (202) 633-3048.

For specific information—John L. Rebsamen, Director Refugee and Parole Staff Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C., 20536, Telephone: (202) 633-2361.

**SUPPLEMENTARY INFORMATION:.**

#### General

On June 2, 1980, at 45 FR 37393, the Service published interim regulations, effective June 1, 1980, to implement Title II of the Refugee Act of 1980, Pub. L. 96-212, 94 Stat 102. The Refugee Act of 1980 is a major departure from prior legislation which provided relief for refugees. The Act establishes a permanent and systematic procedure for meeting the humanitarian needs of refugees and those seeking asylum in the United States. Prior statutory provisions have proven to be inadequate because of the lack of uniformity in treating refugees from different parts of the world.

The regulations accomplish the following specific objectives: Determine who qualifies as a refugee; establish procedures for inspecting and examining refugees; provide for waiver of certain exclusionary grounds for admittance; provide for termination of status of those who no longer qualify as refugees; and provide for the admittance of refugees subject to numerical limitations.

#### Admission of Refugees

The regulations on the admission of refugees are contained in 8 CFR Part 207 Any alien who believes he/she is eligible for admission to the United States as a refugee, and who is within one of the groups designated by the President to be of special humanitarian concern, may apply overseas to the Immigration & Naturalization Service officer in charge of the area in which the alien is located, or if remote from established Immigration & Naturalization Service offices, may apply preliminarily to the nearest designated American consular officer, pending an interview by an Immigration & Naturalization Service officer to determine eligibility. Any alien who is firmly resettled in a third country is not eligible for admission as a refugee. If an applicant is qualified for admission to the United States as an immediate relative of a United States citizen or a special immigrant, he/she will not be processed for admission as a refugee unless to do so would be in the public interest. If it appears that the applicant could be admitted to the United States

as an immigrant other than as an immediate relative, and if a visa is immediately available, he/she will be advised but not required to seek admission by that other process.

The applicant, unless under 14 years of age, must appear in person for questioning before an Immigration & Naturalization Service officer, or other designated officer, and all applicants must submit to medical examinations. In addition, a sponsorship agreement in behalf of the alien executed by an acceptable party, and an assurance of transportation to the U.S. destination, must be obtained before refugee status is granted. If the alien needs a waiver of inadmissibility, an application may be made to the Immigration & Naturalization Service officer in charge having jurisdiction over the area where the alien is located. No appeal is provided for a denial of eligibility under section 207(c) of the Act. Waiting lists will be maintained according to the date applications are received. The Attorney General, however, may select refugees for admission from these lists in other than chronological order for reasons which best support the policies and interests of the United States. Each time refugee status is approved, a number will be deducted from the number authorized by the President for the particular group. The approval of an application for admission as a refugee is valid for four months from date of approval, which is considered to be the date the alien is given final clearances by U.S. officials to travel to the United States.

Adjustment to Permanent Resident

Section 209 contains the procedures for adjustment to lawful permanent resident alien status by refugees and asylees. Notice will be sent to all refugees after one year to report for an interview. If the refugee is admissible, he/she will be adjusted to lawful permanent resident status at that time. An alien who has been granted asylum, and continues to remain eligible for asylum status may be adjusted to permanent resident status if the alien is otherwise admissible and there is a refugee number available. Under the Refugee Act, up to 5,000 numbers per year may be made available for adjusting asylees. A denial of adjustment may not be appealed; however, the application may be renewed in deportation or exclusion proceedings before an immigration judge. Pending applications for adjustment by aliens who were eligible under the provision to section 203(a)(7) will be considered for adjustment as asylees.

Part and Section Analyses

The following section by section analyses are based upon the public comments received during the 60 day comment period following publication of the interim regulations on June 2, 1980, and on the Service's experience during this period:

Part 108—Asylum

The former Part 108—Asylum, is revoked by this order. With the enactment of the Refugee Act of 1980, the former regulations under Part 108 are no longer applicable.

Part 207—Admission of Refugees

This Part revises the former Part 207 published as an interim regulation. The revision is the result of evaluating public comments received, and the Service's experience in working with the interim regulations. One commenter believed that under § 207.1(d), a refugee should be able to apply for one or more classifications for benefits and still be processed as a refugee. The final rule provides that if an immigrant visa is immediately available to an alien, this avenue shall be used for entry in order to save the refugee numbers available for those refugees who are ineligible for any other benefits under the Act.

Another commenter suggested clarifying the language in § 207.1(e) from "* * * if not otherwise entitled to admission * * *" to "* * * if not an immediate relative or special immigrant * * *". We believe no change is necessary. The wording in the final rule accurately paraphrases the language in section 207(c)(2) of the Act and immediate relatives and special immigrants are fully considered under § 207.1(d).

Another commenter suggested that resettlement and sponsorship were more relevant to the admission rather than the status of a refugee. Under section 207(c) of the Act, a refugee must qualify for admission before being processed for entry to the United States. Once determined to be admissible, the mechanics of refugee processing follow sequentially. The process needs to be viewed in its entirety rather than as separate issues as suggested by the commenter.

Another suggested that the hearing required under § 207.2 should be waived in special circumstances. Applicants under 14 years of age already are exempt from the hearing requirement and, further exemptions, particularly for adult applicants, defeat the orderly screening of refugees which is essential for control purposes.

There were several comments to eliminate the sponsorship and assurances required by § 207.2 regarding employment, housing, and transportation for the refugees. It would be improper for the United States to allow refugees to enter this country without providing an orderly program under which these refugees would be assured transportation to their destination, housing, and assistance in this country. Subsection 207.2(d) of the final rule now expands sponsorship to organizations as well as to individuals. Concern was expressed for obtaining housing and employment assurances in those areas where there were no voluntary agencies to assist the refugees in resettling. The Service encourages voluntary agencies to participate in refugee programs and efforts will be made to place refugee applicants in contact with interested assistance groups. Also, under Title IV of the Refugee Act, the Director of the Office of Refugee Resettlement is authorized funds for social services for refugees.

A group representative stated that priority for admission should be based on "family reunification and humanitarian considerations such as immediate danger to the security and/or health of the applicants". The group is strongly opposed to the use of "close association with the United States", or "public interest" as grounds for "preferential treatment". The representative did not specify why consideration of the "public interest" should not be part of the criteria for selection. These refugees may be subject to some degree of danger to their health and security. The criteria of "close association" and "public interest" are considered appropriate as a means to fulfill national policies and commitments under the Act.

Several commenters suggested changing § 207.6 regarding the control of approved refugee numbers. One suggested that the number not be deducted until the refugee actually arrives in the United States; this could result in a refugee arriving at the port of entry without a number being available. The present rule provides for more orderly control of the numbers and the flow of refugees. Another commenter suggested that accounting control track both approvals and denials. Section 207 of the Act requires only that the number of refugees who enter the United States within a given period be limited. The Act does not require an accounting for refugee applications denied.

Part 209—Adjustment of Status of Refugees and Aliens Granted Asylum

Some commenters stated that the annual interview of the asylee should be waived unless termination of asylum status was contemplated by the Service. They also questioned the statutory authority of the Service to limit the approval of asylum status to one year. Subsection 209(b) of the Act requires the Service to promulgate regulations to inspect and examine every alien granted asylum who has been physically present in the United States for at least one year, and who has not acquired permanent resident status. The purpose of the Refugee Act, clearly stated in Title I, is to provide a permanent and systematic procedure for the admission to this country of refugees and to provide for effective resettlement and absorption of those who are admitted.

This final order is not a major rule within the definition of subsection 1(b) of E.O. 12291. The order makes technical revisions to interim regulations which have been in effect since June 1, 1980.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that promulgation of this final rule will not have a significant economic impact on a substantial number of small entities because the rule is substantially a technical revision of existing interim regulations and does not add an additional burden.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

## PART 108—ASYLUM [REMOVED]

1. 8 CFR Part 108—Asylum is revoked and removed in its entirety.

2. 8 CFR Part 207—Admission of Refugees is revised to read as follows:

## PART 207—ADMISSION OF REFUGEES

Secs.
207.1 Eligibility.
207.2 Applicant processsing.
207.3 Inadmissible applicant.
207.4 Approved application.
207.5 Waiting lists and priority handling.
207.6 Control over approved refugee numbers.
207.7 Physical presence in the United States.
207.8 Termination of refugee status.

Authority: Secs. 101, 103, 201, 207, 209, and 212; (8 U.S.C. 1101, 1103, 1151, 1157, 1159, and 1182)

### § 207.1 Eligibility.

(a) *Presidential designation.* Before the beginning of each fiscal year the President determines (after appropriate consultation) the number and allocation of refugees who are of special humanitarian concern to the United States and who are to be admitted during the succeeding twelve months. Any alien who believes he/she is a "refugee" as defined in section 101(a)(42) of the Act, and is included in a refugee group of special humanitarian concern as designated by the President, may apply for admission to the United States by filing Form I-590 (Registration for Classification as Refugee) with the overseas Immigration and Naturalization Service's officer in charge responsible for the area where the applicant is located. In those areas too distant from an officer in charge, making direct filing impracticable, the Form I-590 may be filed preliminarily at a designated consular office.

(b) *Firmly resettled.* A refugee is considered to be "firmly resettled" if he/she has been offered resident status, citizenship, or some other type of permanent resettlement by a country other than the United States and has travelled to and entered that country as a consequence of his/her flight from persecution. Any applicant who has become firmly resettled in a foreign country is not eligible for refugee status under this chapter.

(c) *Not firmly resettled.* Any applicant who claims not to be firmly resettled in a foreign country must establish that the conditions of his/her residence in that country are so restrictive as to deny resettlement. In determining whether or not an applicant is firmly resettled in a foreign country, the officer reviewing the matter shall consider the conditions under which other residents of the country live: (1) Whether permanent or temporary housing is available to the refugee in the foreign country; (2) nature of employment available to the refugee in the foreign country; and (3) other benefits offered or denied to the refugee by the foreign country which are available to other residents, such as (i) right to property ownership, (ii) travel documentation, (iii) education, (iv) public welfare, and (v) citizenship.

(d) *Immediate relatives and special immigrants.* Any applicant for refugee status who qualifies as an immediate relative or as a special immigrant shall not be processed as a refugee unless it is in the public interest. The alien shall be advised to obtain an immediate relative or special immigrant visa and shall be provided with the proper petition forms to send to any prospective petitioners. An applicant who may be eligible for classification under sections 203(a)(1), (2), (3), (4), (5), (6), or (7) of the Act, and for whom a visa number is now available, shall be advised of such eligibility but is not required to apply.

(e) *Spouse and children.* The spouse of child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E) of the Act) of any refugee who qualifies for admission, shall if not otherwise entitled to admission and if not a person described in the second sentence of section 101(a)(42) of the Act, be entitled to the same status as such refugee if accompanying, or following to join such refugee. His/her entry shall be charged against the numerical limitation under which the refugee's entry is charged.

### § 207.2 Applicant processing.

(a) *Forms.* Each applicant who seeks admission as a refugee shall submit an individual Form I-590 (Registration for Classification as Refugee). Additionally, each applicant 14 years old or older must submit completed forms G-325C (Biographical Information) and FD-258 (Applicant Card).

(b) *Hearing.* Each applicant 14 years old or older shall appear in person before an immigration officer for inquiry under oath to determine his/her eligibility for admission as a refugee.

(c) *Medical examination.* Each applicant shall submit to a medical examination as required by sections 221(d) and 234 of the Act.

(d) *Sponsorship.* Each applicant must be sponsored by a responsible person or organization. Transportation for the applicant from his/her present abode to the place of resettlement in the United States must be guaranteed by the sponsor. The application for refugee status will not be approved until the Service receives an acceptable sponsorship agreement and guaranty of transportation in behalf of the applicant.

### § 207.3 Inadmissible applicant.

(a) *Statutory exclusion.* An applicant within the class of aliens excluded from admission to the United States under paragraphs (27), (29), (33), or so much of paragraph (23) as it relates to trafficking in narcotics of section 212(a) of the Act, shall not be admitted as a refugee under section 207 of the Act. However, an applicant seeking refugee status under section 207 is exempt by statute from the exclusionary provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Act and a waiver of exclusion is not required.

(b) *Waiver of exclusion.* Except for the exclusionary and statutory exemption provisions noted in § 207.3(a) any other exclusionary provisions of section 212(a) of the Act may be waived for humanitarian purposes, to assure family unity, or when it is in the public interest. This authority is delegated to officers in charge who shall initiate the

necessary investigations to establish the facts in each waiver application pending before them. Form I-602 (Application by Refugee for Waiver of Grounds of Excludability) may be filed with the officer in charge before whom the applicant's Form I-590 is pending. The burden is upon the applicant to show that the waiver should be granted based upon: (1) Humanitarian purposes, (2) family unity, or (3) public interest. The applicant shall be notified in writing regarding the application for waiver, including the reason for denial if the application is denied. There is no appeal from a waiver denial under this chapter.

**§ 207.4 Approved application.**

Approval of Form I-590 by an officer in charge outside the United States authorizes the district director of the port of entry in the United States to admit the applicant conditionally as a refugee upon arrival at the port within four months of the date the Form I-590 was approved. There is no appeal from a denial of refugee status under this chapter.

**§ 207.5 Waiting lists and priority of handling.**

Waiting lists are maintained for each designated refugee group of special humanitarian concern. Each applicant whose application is accepted for filing by the Immigration and Naturalization Service shall be registered as of the date of filing. The date of filing is the priority date for purposes of case control. Refugees or groups of refugees may be selected from these lists in a manner that will best support the policies and interests of the United States. The Attorney General may adopt appropriate criteria for selecting the refugees and assignment of processing priorities for each designated group based upon such considerations as: Reuniting families, close association with the United States, compelling humanitarian concerns, and public interest factors.

**§ 207.6 Control over approved refugee numbers.**

Current numerical accounting of approved refugees is maintained for each special group designated by the President. As refugee status is authorized for each applicant, the total count is reduced correspondingly from the appropriate group so that information is readily available to indicate how many refugee numbers remain available for issuance.

**§ 207.7 Physical presence in the United States.**

For the purpose of adjustment of status under section 209(a)(1) of the Act, the required one year physical presence of the applicant in the United States is computed from the date the applicant entered the United States as a refugee.

**§ 207.8 Termination of refugee status.**

The refugee status of any alien (and of the spouse or child of the alien) admitted to the United States under section 207 of the Act shall be terminated by any district director in whose district the alien is found if the alien was not a refugee within the meaning of section 101(a)(42) of the Act at the time of admission. The district director shall notify the alien in writing of the Service's intent to terminate the alien's refugee status. The alien shall have 30 days from the date notice is served upon him/her or, delivered to his/her last known address, to present written or oral evidence to show why the alien's refugee status should not be terminated. There is no appeal under this chapter from the termination of refugee status by the district director. Upon termination of refugee status, the district director shall process the alien under sections 235, 236, and 237 of the Act.

3. 8 CFR Part 209—Adjustment of Status of Refugees and Aliens Granted Asylum is revised to read as follows:

## PART 209—ADJUSTMENT OF STATUS OF REFUGEES AND ALIENS GRANTED ASYLUM

Secs.



Authority: Secs. 101, 103, 207, and 209; 94 Stat. 105; (8 U.S.C. 1101, 1103, and 1159).

**§ 209.1 Admission as permanent resident after one year.**

(a) *Eligibility.* (1) Every alien in the United States as a refugee under section 207 of this chapter whose status has not been terminated, is required to appear before an immigration officer one year after entry to determine his/her admissibility under sections 235, 236, and 237 of the Act. The applicant shall be examined under oath to determine admissibility. If the applicant is found to be admissible, he/she shall be inspected and admitted for lawful permanent residence as of the date of the alien's arrival in the United States. If the applicant is determined to be inadmissible, he/she shall be informed that he/she may renew the request for admission to the United States as an immigrant in exclusion proceedings under section 236 of the Act. The provisions of this section shall provide the sole and exclusive procedure for adjustment of status by a refugee admitted under section 207 of the Act, whose application is based on his/her refugee status.

(2) Every alien processed by the Immigration and Naturalization Service abroad and paroled into the United States as a refugee after April 1, 1980, and before May 18, 1980 shall be considered as having entered the United States as a refugee under section 207(a) of the Act.

(b) *Processing Application.* One year after arrival in the United States, every refugee entrant shall be notified to appear for examination before an immigration officer. Each applicant shall be examined under oath to determine eligibility for permanent residence. If the refugee entrant has been physically present in the United States for at least one year, forms FD-258 (Applicant Card) and G-325A (Biographical Information) will be processed. Unless there were medical grounds for exclusion at the time of arrival, a United States Public Health Service medical examination is not required. If the alien is found admissible after inspection under section 209(a) of the Act, he/she shall be processed for issuance of Form I-551 (Alien Registration Receipt Card).

**§ 209.2 Adjustment of status of alien granted asylum.**

(a) *Eligibility.* The status of any alien who has been granted asylum in the United States may be adjusted by the district director to that of an alien lawfully admitted for permanent residence, provided the alien: (1) Applies for such adjustment; (2) has been physically present in the United States for at least one year after having been granted asylum; (3) continues to be a refugee within the meaning of section 101(a)(42) of the Act, or the spouse or child of a refugee; (4) has not been firmly resettled in any foreign country; (5) is admissible to the United States as an immigrant under the Act at the time of examination for adjustment without regard to paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Act, and; (6) has a refugee number available under section 207(a) of the Act. If the application for adjustment filed under this part exceeds the refugee numbers available under Section 207(a) of the Act for the fiscal year, a waiting list will be established on a priority basis by the date the application was properly filed. The provisions of this section shall provide the sole and exlusive procedure for adjustment of status by an asylee admitted under section 208 of the Act whose application is based on his/her asylee status.

(b) *Inadmissible Alien.* An applicant who is inadmissible to the United States under section 212(a) of the Act, may, under section 209(c) of the Act, have the grounds of inadmissibility waived by the district director (except for those grounds under paragraphs (27), (29), (33), and so much of (23) as relates to trafficking in narcotics) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. An application for the waiver may be filed on Form I-602 (Application by Refugee for Waiver of Grounds of Excludability) with the application for adjustment. An applicant for adjustment who has had the status of an exchange alien nonimmigrant under section 101(a)(15)(J) of the Act, and who became subject to the foreign resident requirement of section 212(e) of the Act, shall be eligible for adjustment without regard to the foreign residence requirement.

(c) *Application.* An application without fee for the benefits of section 209(b) of the Act may be filed on Form I-485 (Application for Status as Permanent Resident) with the district director having jurisdiction over the applicant's place of residence. A separate application must be filed by each alien, and if the alien is 14 years or older it must be accompanied by a completed Form G-325A (Biographical Information) and Form FD-258 (Applicant Card). The application must be supported by evidence that the applicant has been granted asylum and has thereafter been physically present in the United States for at least one year. After an alien has been served with an order to show cause or placed under exclusion proceedings, the application can be filed and considered only in proceedings under Section 242 or 236 of the Act.

(d) *Medical Examination.* Upon acceptance of the application, the applicant shall submit to an examination by a selected civil surgeon as required by section 221(d) and 234 of the Act. The report setting forth the findings of the mental and physical condition of the applicant shall be incorporated into the record.

(e) *Interview.* Each applicant for adjustment of status under this part shall be interviewed by an immigration officer. The interview may be waived for a child under 14 years of age.

(f) *Decision.* The applicant shall be notified of the decision, and if the application is denied, of the reasons for denial. No appeal shall lie from the denial of an application by the district director but such denial will be without prejudice to the alien's right to renew the application in proceedings under Parts 242 and 236 of this chapter. If the application is approved, the district director shall record the alien's admission for lawful permanent residence as of the date one year before the date of the approval of the application.

Dated: August 26, 1981.

Doris M. Meissner,

*Acting Commissioner of Immigration and Naturalization.*

[FR Doc. 81-26342 Filed 9-9-81; 8:45 am]

BILLING CODE 4410-10-M

## FEDERAL HOME LOAN BANK BOARD

## 12 CFR Part 556

## Statement of Policy Regarding Supervisory Mergers and Acquisitions

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Final rule.

Dated: September 3, 1981.

**SUMMARY:** The Federal Home Loan Bank Board has amended its regulations to clarify its policy regarding branch applications by Federal savings and loan associations that have established an interstate branch office through supervisory merger, consolidation, or purchase of assets.

**EFFECTIVE DATE:** September 3, 1981.

**FOR FURTHER INFORMATION CONTACT:** Peter M. Barnett, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. (Telephone: (202) 377-6445).

**SUPPLEMENTARY INFORMATION:** On March 23, 1981 (Board Resolution No. 81-157; 46 FR 19221, March 30, 1981), the Board amended its policy statement on branching (12 CFR 556.5) to clarify that the Board may approve a merger, consolidation, or purchase of assets involving a Federal association that would not otherwise be permissible under the general rule permitting Federal associations to operate branch offices only in the state in which the association's home office is located. Such approval would be given if: (1) The proposed acquisition would be effected pursuant to a plan to prevent the failure of an institution insured by the FSLIC, (2) the Board determined that the insurance liability or risk of the FSLIC would be reduced as a result of the proposed acquisition, and (3) the Board determined that the insurance liability or risk of the FSLIC resulting from the proposed acquisition transaction would be substantially less than the liability or risk that would result from otherwise equally desirable acquisition alternatives, if any, that would not result in interstate branch operations.

By its action today, the Board is amending the policy statement on branching to provide that an institution, that has established a branch office in a state other than the state in which its home office is located through supervisory action by the FSLIC, may establish additional branch offices in that state with Board approval. It should be noted that the amendment provides an exception to the general rule only in the specified types of supervisory case and does not alter the Board's policy regarding interstate branching in non-supervisory contexts or the preference for intrastate supervisory mergers and acquisitions.

The Board finds that observance of the notice and comment period of 12 CFR 508.12 and 5 U.S.C. 553(b) and the 30-day delay of effective date of 12 CFR 508.14 and 5 U.S.C. 553(d) would be contrary to the public interest. An immediate effective date is necessary to clarify Board policy and facilitate the operations of the FSLIC in this area.

Accordingly, the Board hereby amends Part 556, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

**Subchapter C—Federal Savings and Loan System**

## PART 556—STATEMENTS OF POLICY

Amend subparagraph (a)(3) of § 556.5 by adding a new subparagraph (a)(3)(iii), to read as follows:

**§ 556.5 Establishment of branch offices.**

(a) * * *

(3)(i) The Board generally will approve the establishment of a branch only in the state in which the home office is located.

(ii)(*a*) Notwithstanding the preceding paragraph (a)(3)(i), the Board may approve the establishment of a branch office in a state other than the state in which the home office is located, provided that:

(*1*) the establishment of the branch office will be achieved by acquiring assets of another institution, by merger or otherwise, pursuant to an action by the Federal Savings and Loan Insurance Corporation to prevent the failure of the other institution.

(*2*) the Board determines that the insurance liability or risk of the Federal Savings and Loan Insurance Corporation will be reduced as a result of maintaining the branch office, and

(*3*) if any otherwise equally desirable acquisition alternative that could be approved in accordance with

subparagraph (3)(i) of this section has been submitted, the Board determines that the insurance liability or risk of the FSLIC resulting from the proposed interstate acquisition transaction will be substantially less than the liability or risk that would result from such other acquisition alternative.

(b) In reviewing acquisition alternatives submitted for consideration in accordance with this subparagraph (3)(ii), the board will give preference to a particular alternative on the basis that a home office or an operating branch office of an association that will be a party to the proposed acquisition is located in the same Standard Metropolitan Statistical Area or locality as a home office or an operating branch office of the other association or each of the other associations that will be parties to the acquisition.

(iii) Notwithstanding paragraph (a)(3)(i) of this section, the Board may approve the establishment of a branch office in any state in which the applicant has established a branch office pursuant to the conditions set forth in paragraph (a)(3)(ii)(a)(1) of this section.

* * * * *

(12 U.S.C. 1464, 1729; Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

*Secretary.*

[FR Doc. 81-26447 Filed 9-9-81; 8:45 am]

BILLING CODE 6720-01-M

## DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

## 12 CFR Part 1204

## Qualified Tax-Exempt Savings Certificates; Interest on Deposits

**AGENCY:** Depository Institutions Deregulation Committee.

**ACTION:** Final rules.

**SUMMARY:** The Depository Institutions Deregulation Committee ("Committee") has established a new category of time deposit in order to permit depositors to take advantage of the Federal income tax benefits applicable to interest earned on qualified tax-exempt savings certificates, the so-called All-Savers Certificates ("ASCs"), and in order to help depository institutions reduce their costs of funds and increase their deposit flows. The Economic Recovery Tax Act of 1981 ("Tax Act"), with certain restrictions, authorizes a maximum lifetime exclusion of $1,000 ($2,000 in the case of a joint return) from gross income for interest earned on ASCs, which (1) are issued from October 1, 1981 through December 31, 1982, (2) have a maturity of one year, (3) are available in denominations of $500 and any other denomination determined by the depository institution and (4) have an annual investment yield equal to 70 percent of the average investment yield for the most recent auction of 52-week U.S. Treasury bills prior to the calendar week in which the ASCs are issued. The Committee also required that certain notice regarding the tax implications of ASCs be given to a depositor prior to the purchase of an ASC.

**EFFECTIVE DATE:** October 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377–6446), F. Douglas Birdzell or Joseph A. DiNuzzo, Counsels, Federal Deposit Insurance Corporation (202/389–4324 or 389–4237), Daniel Rhoads, Attorney, Board of Governors of the Federal Reserve System (202/452–3711), Allan Schott or Elaine Boutilier, Attorney-Advisors, Treasury Department (202/566–6798 or 566–8737), David Ansell, Attorney, Office of the Comptroller of the Currency (202/447–1880).

**SUPPLEMENTARY INFORMATION:** Title III of the Tax Act, Public Law 97–34, 95 Stat. 172, (26 U.S.C. 128) provides that up to certain maximum dollar limitations and under certain restrictions, an individual's gross income (for Federal income tax purposes) does not include interest earned on qualified ASCs. In general, the Tax Act authorizes a lifetime exclusion from gross income of $1,000 for an individual return and $2,000 for a joint return, *i.e.*, regardless of how much interest is earned on all ASCs, and regardless of during which taxable years interest on ASCs is earned, no more than a total of $1,000 ($2,000 in the case of a joint return) can be excluded from gross income for all taxable years. However, interest earned on a particular ASC may not be excluded from gross income, if (1) any portion of the principal of that ASC is redeemed prior to its maturity, or (2) any portion of that ASC is used as collateral or security for a loan.

In order for interest to qualify for exclusion from gross income under the Tax Act, an ASC must meet several requirements. First, ASCs may be issued only during the period beginning on October 1, 1981, and ending on December 31, 1982. Second, the certificates must have a maturity period of one year. Third, the certificate must have an annual investment yield equal to 70 percent of the average annual investment yield on 52-week Treasury bills. Fourth, the issuing institution must provide that ASCs are available in denominations of $500.

The Tax Act imposes limitations on the issuing institution with respect to the use of deposit funds derived from ASCs. Generally, for commercial banks, mutual savings banks and savings and loan associations, the Tax Act requires that at least 75 percent of the lesser of: (1) the proceeds from ASCs issued during a calendar quarter or (2) "qualified net savings", be used to provide "qualified residential financing" by the end of the subsequent calendar quarter. If an institution fails to meet the "qualified residential financing" requirement by the end of any calendar quarter, it may not issue additional ASCs until the requirement is satisfied.

The term "qualified net savings" is the amount by which deposits into passbook savings accounts, 6-month money market certificates, 30-month small saver certificates, time deposits of less than $100,000, and ASCs exceed the amount withdrawn or redeemed from such accounts measured at the beginning and end of each calendar quarter.

"Qualified residential financing" is any of the following:

(a) any loan secured by a lien on a single-family or multifamily residence;

(b) any secured or unsecured qualified home improvement loan;

(c) any mortgage on a single-family or multifamily residence that is insured or guaranteed by the Federal, State or local government or any instrumentality thereof;

(d) any loan to acquire a mobile home;

(e) any loan for the construction or rehabilitation of a single-family or multifamily residence;

(f) any mortgage secured by single-family or multifamily residences purchased on the secondary market, but only to the extent such purchases exceed sales of such assets;

(g) any security issued or guaranteed by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or any security issued by any other person if such security is secured by mortgages, but only to the extent such purchases exceed sales of such assets; and

(h) any loan for agricultural purposes.

The Tax Act defines single-family residence to include stock in a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code, and 2, 3, and 4 family residences.

The Tax Act does not, however, authorize depository institutions to offer

ASCs; such determinations were left to the relevant regulatory agencies. In this regard, the Committee is empowered by its enabling statute, The Depository Institutions Deregulation Act (12 U.S.C. 3501 *et seq*), to prescribe rules governing "the establishment of classes of deposits or accounts", at all Federally insured commercial banks, mutual savings banks and savings and loan associations. In conformance with the provisions of the Tax Act, the Committee has authorized depository institutions to offer non-negotiable ASCs with the following characteristics:

(1) A maturity of one year;

(2) Available in denominations of $500, and

(3) An annual investment yield equal to 70 percent of the average annual investment yield on 52-week U.S. Treasury bills auctioned immediately preceding the calendar week in which the ASC is issued.

The Tax Act provides that ASCs have a maturity of one year and there is no language in the legislative history or the statute to indicate any flexibility on this question. Accordingly, ASCs must have a maturity of exactly one year. It would be possible, however, for institutions, as part of their contract with depositors, to provide for the automatic renewal of ASCs, just as is permissible for any other time deposit.

The Tax Act states that ASCs are to be "made available in denominations of $500." There is no language in the statute or its legislative history to indicate that ASCs are to be issued *only* in denominations of $500, or *only* in denominations of $500 or more. Thus, the Committee has concluded that depository institutions offering ASCs are required to make them available in denominations of $500, but are permitted to offer ASCs in any other denomination, including denominations of more or less than $500. However, a depository institution may establish its own maximum deposit amount above $500. Accordingly, an institution offering ASCs is required to accept ASC deposits for $500 and may issue them in multiples of $500, such as $1,000, $1,500 and so on, but is not required to accept ASC deposits in other amounts. A depository institution is not required to issue individual certificates for each $500 of a deposit. At the same time, an institution is permitted to accept ASC deposits in any other amount. For example, a depository institution could accept an ASC deposit in the amount of $247.00 or $1,386.45.

With respect to the yield, ASCs must have an annual investment yield to maturity equal to 70 percent of the average investment yield of the most recently auctioned 52-week U.S. Treasury bills. The most recent auction is the one occurring immediately preceding the week in which the ASC is issued. Normally, 52-week U.S. Treasury bills are auctioned every four weeks, on a Thursday. The results of the auction are announced by the Treasury Department late in the day on the auction date. The average investment yield determined by that auction would be applicable for all ASCs issued beginning the next week, which would normally begin on a Monday. Beginning September 3, 1981, the Treasury Department will include the average annual investment yield to maturity for 52-week U.S. Treasury bills (rounded to the nearest one-hundredth of a percentage point) as part of the auction announcement. The annual investment yield should not be confused with the bank discount rate or the investment rate (equivalent coupon-issue yield), both of which are included in the Treasury Department's auction announcement.

Unlike other time deposits regulated by the Committee, the yield on ASCs must be equal to 70 percent of the average annual investment yield on 52-week Treasury bills, rather than be the maximum permissible rate payable on such deposits. Thus, all depository institutions must provide the same yield to maturity on ASCs and there is no differential in favor of thrift institutions. Since the yield on ASCs must be equal to 70 percent of the yield on 52-week U.S. Treasury bills determined at a specific auction, ASCs are fixed-rate instruments.

At their discretion Institutions may credit interest earned periodically during the term of an ASC deposit. Periodic crediting, however, would require that the nominal interest rate be decreased with increased periodicity of compounding. The total amount of interest credited on ASCs at maturity will not vary with different methods of compounding, provided that no interest is withdrawn during the term of the deposit. Withdrawals are permitted, but an individual who withdraws interest during the deposit term will receive a lower total amount of interest than if periodic interest earned were left on account and only withdrawn at ASC maturity, because the effect of compounding does not take place on any withdrawn interest amounts.

The auction of 52-week U.S. Treasury bills on August 6, 1981, resulted in an average price of 85.296 per 100. The annual investment yield on such 52-week bills would be 17.29 percent, 70 percent of which, 12.10 percent, would be the annual investment yield that institutions are required to pay on ASCs. An investor depositing $1,000 in an ASC subject to this yield requirement must receive $121.00 in interest upon maturity of the deposit if all principal and any interest credited by compounding is maintained on deposit for the entire one-year term of the certificate. If, however, an institution permits a depositor to withdraw interest prior to maturity, the amount of interest paid at any given time may only be that amount then credited to the depositor's account based on the periodicity of compounding employed. Accordingly, institutions paying or crediting interest on a quarterly basis in the above illustration would pay $28.97 per quarter, which is an annualized nominal interest rate of 11.59 percent. Such interest, if left in the account and compounded quarterly, would accumulate to $121.00 at the end of the one-year term of the certificate. Similarly, monthly payments of interest would be $9.56 at a nominal rate of 11.48 percent. Different payments or crediting of interest would have to be adjusted accordingly.[1]

The Committee has also determined that all of its other rules relating to time and savings deposits are applicable to ASCs. For example, interest may be paid to a depositor prior to maturity of the ASC, provided that interest is not prepaid as provided in the Committee's rules (12 CFR 1204.101 and 1204.111). In addition, the withdrawal of any portion of the ASC (although not the interest earned on the ASC) would result in imposition of an early withdrawal penalty equal to 3 months interest at the nominal interest rate on the amount withdrawn. (12 CFR 1204.103). Furthermore, any brokers' or finders' fees paid in connection with an ASC must be included as part of the yield on the deposit (12 CFR 1204.110).

[1] The formula used to derive the nominal interest rate at which interest can be paid and credited is as follows:

$$I = \left(1 + \frac{c}{100}\right)^{d/365} - 1 \qquad r = 100 \times \left(\frac{365}{d}\right) \times I$$

where:

c = the annual investment yield required to be paid on the ASCs (in percent per annum);

d = the average number of days in a compounding period (365 day year)

I = the amount of interest that can be paid during a compounding period per dollar on balance in the account at the beginning of said period; and

r = the corresponding nominal rate of interest (365-day basis, in percent per annum).

For institutions using continuous compounding, the nominal interest rate would be defined as: $r = 100 [\ln (1 + (c/100))]$, where "ln" signifies the natural logarithm of the expression that follows it.

With respect to premiums, questions have been raised regarding the permissibility of offering premiums for ASC deposits because of a discussion which took place on the floor of the House of Representatives during consideration of the Tax Act (See *Congressional Record*, July 29, 1981, page H 5139). In that discussion, it was concluded that "substantial premiums or other inducements" should not be used to increase the yield on ASCs. The Committee previously determined that, within certain limitations, premiums given to attract deposits are considered promotional or advertising expenses rather than the payment of interest. For the same reason, the Committee has determined that premiums, under existing limitations, should not be viewed as increasing the yield on ASCs. Thus, premiums may be offered in connection with ASCs under the limitations of the Committee's existing rules (12 CFR 1204.109).

In order to avoid any misunderstandings regarding the tax consequences of the interest earned on a particular ASC, the Committee required depository institutions to provide customers with the following notice prior to the issuance of an ASC:

> The Economic Recovery Tax Act of 1981 authorizes a maximum lifetime exclusion from gross income for Federal income tax purposes of $1,000 ($2,000 in the case of a joint return) for interest earned by individuals on tax-exempt savings certificates. Regardless of how much interest is earned on this or any other tax-exempt savings certificate, including interest earned on such certificates from other institutions, and regardless of during which taxable years that interest is earned, no more than a total of $1,000 ($2,000 in the case of a joint return) can be excluded from federal gross income for all taxable years. Furthermore, interest earned on a specific certificate cannot be excluded from federal gross income if (1) that certificate is used as collateral for any loan, or (2) any part of the principal of that certificate is redeemed or disposed or prior to maturity.

The notice is intended to indicate to depositors that they have ultimate responsibility for the tax consequences of an ASC.

Several requests were submitted to the Committee asking that depositors with six-month money market certificates be permitted to convert their deposits to ASCs, without imposition of any early withdrawal penalty. Because the Federal Reserve Board, Federal Deposit Insurance Corporation and Federal Home Loan Bank Board under their respective individual authorities have already addressed the circumstances under which existing deposits may be converted to ASCs, the Committee has determined that it is not necessary for the Committee to act on the requests.

Also, in order to avoid any confusion or uncertainty with respect to certain terms which are used in the Tax Act, the Committee has made interpretations of such terms. First, the Committee has defined the term "qualified net savings" to include any interest or dividends credited to deposit accounts, since such interest is part of each customer's deposit funds.

Second, the aggregate amount of "qualified residential financing" that a depository institution is to have invested at the end of a relevant quarter is to be determined net of repayments and paydowns of such assets over the relevant quarter, but sales of such assets may not be netted. Thus, an institution is not required to reinvest all of the previous quarter's mortgage loan payments of principal in addition to the requisite amount of the "qualified net savings" or ASCs for the previous quarter. For example, suppose that during quarter one, qualified net savings increased by $1,500,000—resulting in a requirement that qualified residential financing be increased in quarter two by $1,125,000 (75 percent of $1,500,000). Suppose also that the depository institution ended quarter one with $5,000,000 of qualified residential financing assets, during quarter two had repayments of principal and complete payoffs of qualified residential financing assets of $750,000 and qualified residential financing asset sales of $500,000. To meet its qualified residential financing requirement for quarter two of $1,125,000, the institution would be required to have outstanding at the end of quarter two qualified residential assets of at least $5,375,000 ($5,000,000 plus $1,125,000 minus $750,000). That is, in addition to the required investment in qualified residential financing of 75 percent of last quarter's qualified net savings, the institution would have to make up by the end of the current quarter any sales of qualified residential financing assets during that quarter. It would not have to make up the current quarter's amortization of qualified residential financing from principal repayments and paydowns. If the latter had to be reinvested, qualified residential investment in a quarter would exceed 75 percent of the previous quarter's qualified net savings.

Third, the Tax Act does not provide a definition of the term "loan for agricultural purposes" and the legislative history does not provide guidance on the matter. In such circumstances, the Committee determined to establish a definition on the basis of analogous terms described in the instructions to the Call Report for Insured Commercial Banks. Accordingly, a "loan for agricultural purposes" is defined to include all "loans to finance agricultural production and other loans to farmers" (Schedule A, item 4) and "real estate loans secured by farmland" (Schedule A, item 1(b)). Finally, the exigencies of the housing finance business may make it extremely difficult for depository institutions actually to make investments in eligible loans within the quarter for which the qualified residential financing requirement is determined. Many mortgages close more than three months after the loan commitment is made and construction loan disbursement may be spread over several quarters. Since fulfillment of a commitment would achieve the desired residential financing, the Committee has determined that a firm commitment to make a loan that is described in the Tax Act as "qualified residential financing" will be treated as a qualified investment in the quarter the firm commitment is made.

Under the Tax Act, failure to comply with the qualified residential financing requirement for any calendar quarter precludes an institution from issuing ASCs during the next quarter until the requirement is satisfied. The Committee has determined to enforce this requirement through a certification procedure. An executive officer of the depository institution is to certify that the institution has complied with the qualified residential financing requirement, as set out in the Tax Act. A specific certification form is not required, but it should include appropriate documentation, as determined by the depository institution. In addition, if institutions provide for automatic renewal of an ASC, depositors should be notified in writing at least 15 days in advance of the maturity date in the event the depository institution cannot renew the ASC because of its failure to satisfy the residential financing requirement.

Because immediate action is necessary to implement a program determined to be in the nation's interest by the Congress, and because of limitations of the Committee's discretionary authority, the Committee has not made any findings under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). For the same reason, the Committee finds that the prior notice opportunity for public comment and deferred effective date provisions of 5

U.S.C. 553 are not necessary in taking this action and that good cause exists for not complying with those provisions or the publication provisions of § 1201.6 of the Committee's regulation (12 CFR 1201.6).

## PART 1204—INTEREST ON DEPOSITS

Pursuant to its authority under the Depository Institutions Deregulation Act (12 U.S.C. 3501 *et seq.*), the Committee amends Part 1204—Interest on Deposits (12 CFR Part 1204) by adding a new § 1204.116, to read as follows:

### § 1204.116 Tax-Exempt Savings Certificates.

(a) A commercial bank, savings and loan association, or mutual savings bank may pay interest on a non-negotiable tax-exempt savings certificate ("ASC") provided that the time deposit has an original maturity of exactly one year, is available in denominations of $500 and any other denomination at the discretion of the depository institution, and has an annual investment yield to maturity equal to 70 percent of the average annual investment yield on the most recent auction of 52-week U.S. Treasury bills prior to the calendar week in which the ASC is issued.[2]

(b) A depository institution must provide each depositor the following notice, in a form that the depositor may retain at the time of opening a deposit under this paragraph.

The Economic Recovery Tax Act of 1981 authorizes a lifetime exclusion from gross income for federal income tax purposes of up to $1,000 ($2,000 in the case of a joint return) for interest earned on tax-exempt savings certificates. Regardless of how much interest is earned on this or any other tax-exempt savings certificate, including interest earned on such certificates from other institutions, and regardless of during which taxable years that interest is earned, no more than a total of $1,000 ($2,000 in the case of a joint return) can be excluded from federal gross income for all taxable years. Furthermore, interest earned on a specific certificate cannot be excluded from federal gross income if (A) that certificate is used as collateral for any loan, or (B) any part of the principal of that certificate is redeemed or disposed of prior to maturity.

(c)(1) A depository institution may not issue ASCs after March 31, 1982, under this section unless an executive officer of the depository institution certifies, in a form determined by the institution, that the institution has complied with the "qualified residential financing" requirement set out in 26 U.S.C. 128. The certification must be maintained by the institution in its files and must be available to the institution's primary supervisory agency upon request. The certification shall include appropriate supporting documentation, as determined by the depository institution.

(2) A depository institution issuing ASCs during any calendar quarter must use at least 75 percent of the lesser of:

(i) The proceeds from ASCs issued during a calendar quarter, or

(ii) "Qualified net savings",

to provide "qualified residential financing" by the end of the subsequent calendar quarter and may not issue additional ASCs until the 75 percent requirement is satisfied.

(3) For purposes of determining compliance with the "qualified residential financing" requirement, the following applies:

(i) The term "qualified net savings" includes interest or dividends credited to deposit accounts;

(ii) The amount of "qualified residential financing" is to be determined net of repayment of principal and paydowns, but sales of such assets may not be netted;

(iii) The term "any loan for agricultural purposes" is defined to have the same meaning as items described in the instructions to the Report of Condition of all Insured Commercial Banks, schedule A, item 4 "Loans to Finance Agricultural Production and Other Loans to Farmers", and schedule A, item 1(b) "Real Estate Loans Secured by Farmland", and

(iv) "Qualified residential financing" includes a firm commitment to purchase any assets eligible for such investment.

(d) If a depository institution provides for automatic renewal of an ASC, depositors must be notified in writing at least 15 days in advance of the maturity of an ASC in the event the depository institution cannot renew the ASC because of its failure to satisfy the residential financing requirement. Failure to give such notice shall not result in automatic renewal of the ASC.

(e) This section expires January 1, 1983.

By order of the Committee, September 3, 1981.

Gordon Eastburn,

*Acting Executive Secretary.*

[FR Doc. 81-26287 Filed 9-9-81; 8:45 am]

BILLING CODE 4810-25-M.

[2] When institutions credit interest more frequently than annually, the computation of interest must be adjusted to reflect the effects of compounding so that the annual investment yield to the depositor remains at the rate stipulated by law. Specifically, the formula used to derive the nominal interest rate at which interest can be credited is as follows:

$$r = \left(1 + \frac{c}{100}\right)^{d/365} - 1 \quad r = 100 \times \left(\frac{365}{d}\right) \times I$$

where:

r = the annual investment yield required to be paid on the ASCs (in percent per annum);

d = the average number of days in a compounding period (365 day year).

c = the amount of interest earned during a (365 day year) compounding period per dollar in the account at the beginning of the period; and

I = the corresponding nominal rate of interest (365-day basis, in percent per annum).

For institutions using continuous compounding; the nominal interest rate would be defined as: r = 100 [ln (1+(c/100))], where "ln" signifies the natural logarithm of the expression that follows it.

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

[Docket No. 81-SO-49; Amdt. No. 39-4210]

## Airworthiness Directives; Piper Models PA-44-180 and PA-44-180T Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD) which requires a check and inspections for aileron skin cracks and modification of the ailerons on certain Piper Models PA-44-180 and PA-44-180T airplanes. The AD is needed to prevent possible damage to the outboard leading edge skin and aileron out-of-balance condition which could result in an aeroelastic instability. The requirements of this AD were mailed to owners and operators in letter form August 3, 1981.

**DATES:** Effective September 17, 1981. Compliance required as prescribed in body of AD.

**ADDRESSES:** The applicable service bulletin and kit may be obtained from Piper Aircraft Corporation, Lock Haven Division, Lock Haven Pennsylvania 17745, telephone (707) 748-6711.

A copy of the service bulletin and kit are also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344.

**FOR FURTHER INFORMATION CONTACT:** Charles L. Perry, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

**SUPPLEMENTARY INFORMATION:** There have been five reports of cracks in the outboard leading edge skin of ailerons on certain Piper Models PA-44-180 and PA-44-180T airplanes, which could result in an aileron out-of-balance condition and possible aeroelastic instability. Since this situation is likely to exist or develop on other airplanes of the same type design, an Airworthiness

Directive is being issued which requires checks, inspections, and modification to the ailerons on certain Piper Models PA-44-180 and PA-44-180T airplanes. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

**§ 39.13 [Amended]**

Piper Aircraft Corporation—applies to the following Piper models of aircraft certified in all categories: PA-44-180 Seminole, S/N 44-7995001 through 44-8195016; PA-44-180T Turbo Seminole, S/N 44-8107001 through 44-8107044.

Compliance is required as indicated upon receipt of this directive, unless already accomplished.

Note.—An airmail letter was mailed to owners and operators on August 3.

To prevent possible damage to the outboard leading edge skin, as well as an aileron out-of-balance condition which could lead to aeroelastic instability, accomplish the following:

(a) Before further flight, visually check for cracks at the aileron outboard leading edge balance weight attachment screws.

(1) If cracks are found, comply with paragraph (d).

(2) If no cracks are found, make log book entry that visual check was made.

Note.—The visual check only may be accomplished by the pilot.

(b) At intervals not to exceed 25 hours until 100 hours time in service from the effective date of this AD accomplish the following:

(1) Inspect, using a 10-power magnifying glass, the left and right aileron outboard leading edge skin for cracks near the balance weight attachment screws.

(2) If the skin is cracked near any balance weight attachment screw, comply with paragraph (d) of this AD before further flight.

(3) If there are no cracks, make appropriate log book entry of each inspection.

(c) Within 100 hours time in service from the effective date of this AD comply with paragraph (d).

(d) Reinforce the ailerons outboard leading edge skins by installing Piper's aileron rework kit, Piper Part No. 764 148V in accordance with instructions included with the kit, and make appropriate log book entry.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

Airplanes on which cracks are found may be flown in accordance with FAR 21.197 and 21.199 to a base where the aileron rework kit can be installed, provided the airplane is not flown in excess of 130 MPH indicated speed.

Piper Service Bulletin No. 725A pertains to this subject.

This amendment becomes effective September 17, 1981, and was effective upon receipt of the airmail letter mailed August 3 to owners and operators.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in East Point, Georgia, on August 27, 1981.

George R. LaCaille,

*Acting Director, Southern Region.*

[FR Doc. 81-26270 Filed 9-9-81; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 91

**[Docket No. 22050; SFAR No. 44-1]**

## Special Federal Aviation Regulation No. 44-1; Air Traffic Control System; Interim Operational Plan

### *Correction*

In FR Doc. 81-26155 published in the Friday, September 4, 1981 issue of the Federal Register at pages 44424-44432, and republished in the Tuesday, September 8, 1981 of the Federal Register at pages 44740-44748, make the following change:

Page 44431 of the September 4 issue and page 44747 of the September 8 issue contain an error. The SFO Plan begins with "1500Z" and ends with "2200." The STL Plan begins with "1200Z" and ends with "2300." Those pages should read as set forth below:

BILLING CODE 1505-01-M

| HOUR | SCHEDULED REDUCTION | HOUR | SCHEDULED REDUCTION |
|---|---|---|---|
| SFO PLAN | | | |
| 1500Z | 23% | 2300Z | 20% |
| 1600 | 33 | 0000 | 47 |
| 1700 | 32 | 0100 | 43 |
| 1800 | 44 | 0200 | 48 |
| 1900 | 32 | 0300 | 48 |
| 2000 | 35 | | |
| 2100 | 34 | | |
| 2200 | 20 | | |
| STL PLAN | | | |
| 1200Z | 12% | | |
| 1300 | 47 | | |
| 1600 | 39 | | |
| 1700 | 16 | | |
| 1800 | 50 | | |
| 2000 | 60 | | |
| 2200 | 65 | | |
| 2300 | 43 | | |
| DCA PLAN | | | |
| 1200Z | 46% | 2000Z | 43% |
| 1300 | 37 | 2100 | 38 |
| 1400 | 35 | 2200 | 43 |
| 1500 | 35 | 2300 | 47 |
| 1600 | 35 | 0000 | 48 |
| 1700 | 35 | 0100 | 52 |
| 1800 | 38 | | |
| 1900 | 43 | | |

Reprint of page 44431 of the Federal Register of Friday, September 4, 1981

and page 44747 of the Federal Register of Monday, September 8, 1981,

BILLING CODE 1505-01-C

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 14 CFR Part 1204

### Administrative Authority and Policy

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule; removal.

**SUMMARY:** Part 1204 of this title was issued to prescribe the administrative authority and policy for National Aeronautics and Space Administration officials and other Government officials acting on behalf of the agency to carry out prescribed functions of the National Aeronautics and Space Administration. § 1204.509, "Power and Authority—To Exercise Authority with Respect to Extraterrestrial Exposure," has served its purpose and is no longer applicable to NASA programs.

**EFFECTIVE DATE:** September 10, 1981.

**FOR FURTHER INFORMATION CONTACT:** Margaret M. Herring, Management Processes and Directives Branch, Code NSM-12, NASA Headquarters, Washington, DC 20546, telephone (202) 755-3140.

**SUPPLEMENTARY INFORMATION:** This regulation was published in 34 FR 11974, July 16, 1969, and is being removed because it has served its purpose. Since this removal is administrative and editorial in nature, notice and public procedures thereon are not required.

14 CFR Part 1204 is amended by removing § 1204.509.

### PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

§ 1204.509 [Removed].

Margaret M. Herring,

*Federal Register Liaison Officer.*

[FR Doc. 26368 Filed 9-9-81; 8:45 am]

BILLING CODE 7510-01-M

### 14 CFR Part 1204

### Standards of Conduct for Employee Organizations and Code of Fair Labor Practices

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule; removal.

**SUMMARY:** NASA published its "Standards of Conduct for Employee Organizations and Code of Fair Labor Practices" in 29 FR 3808, March 27, 1964. The policies and procedures described in 14 CFR 1204.8 are no longer applicable and therefore should be removed from the Code of Federal Regulations. Since this removal is administrative and editorial in nature, notice and public procedures thereon are not required.

**DATE:** September 10, 1981.

**FOR FURTHER INFORMATION CONTACT:** Margaret M. Herring, Management Processes and Directives Branch, Code NSM-12, NASA Headquarters, Washington, DC 20546.

### PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

§§ 1204.800–1204.804 [Removed]

14 CFR Part 1204 is amended by removing and reserving Subpart, §§ 1204.800–1204.804.

Margaret M. Herring,

*Federal Register Liaison Officer.*

[FR Doc. 81-26408 Filed 9-9-81; 8:45 am]

BILLING CODE 7510-01-M

### 14 CFR Part 1204

### Costs Sharing on Research Grants and Contracts

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule; removal.

**SUMMARY:** NASA published its final rule, Subpart 1204.13—Cost Sharing in Research Grants and Contracts in 36 FR 20219, October 19, 1971. The guidelines contained in the subpart are no longer applicable and have served their purpose. Since this removal is administrative and editorial in nature, notice and public procedures thereon are not required.

**DATE:** September 10, 1981.

**FOR FURTHER INFORMATION CONTACT:** Margaret M. Herring, Management Processes and Directives Branch, Code NSM-12, NASA Headquarters, Washington, DC 20546.

### PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

§§ 1204.1300—1204.1301 [Removed]

14 CFR Part 1204 is amended by removing and reserving subpart 13; §§ 1204.1300—1204.1301.

Margaret M. Herring,

*Federal Register Liaison Officer.*

[FR Doc. 81-26409 Filed 9-9-81; 8:45 am]

BILLING CODE 7510-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Part 281

[Docket No. RM79-15]

### Natural Gas Curtailment Under the Natural Gas Policy Act of 1978

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Order delineating effect of judicial action on commission's regulations.

**SUMMARY:** The Federal Energy Regulatory Commission states that the effect of the June 30, 1981, decision of the United States Court of Appeals for the District of Columbia Circuit in *Process Gas Consumers Group* v. *United States Department of Agriculture* (Nos. 80-1558 and 80-1603) is to require interstate pipelines to make changes in their index of entitlement of essential agricultural requirements, maintained pursuant to Order No. 29 (Docket No. RM79-15, 44 FR 26855, May 8, 1979) and Order No. 29-C (44 FR 61338, October 25, 1979).

**DATES:** The changes must be filed by September 15, 1981, to become effective November 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** David N. Cook, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-5591:

**SUPPLEMENTARY INFORMATION:**

[Docket No. RM79-15]

In the matter of regulations implementing Section 401 of the Natural Gas Policy Act; Order Delineating Effect of Judicial Action on Commission's Regulations.

Issued: August 27, 1981.

On June 30, 1981, the United States Court of Appeals for the District of Columbia issued an opinion in *Process Gas Consumers Group* v. *United States Department of Agriculture (PGCG)* (Nos. 80-1558 and 80-1603) which has an effect on the Commission's regulations implementing the essential agricultural use curtailment priority established by section 401 of the Natural Gas Policy Act of 1978 (NGPA). (15 U.S.C. 3301-3432.) In order that all affected end-users, local distribution companies and pipelines may be fully aware of the

ramifications of this judicial action, the Commission issues the instant order.[1]

## Background

Title IV of the NGPA sets forth a system of priorities for natural gas allocation during periods of gas curtailment. The highest priority category includes gas used in residences, hospitals, and similar facilities, and the second priority goes to facilities using gas for "essential agricultural uses." To qualify for the second priority, a facility's use of gas must, *inter alia*, be certified by the Secretary of Agriculture (Secretary) as an "essential agricultural use." This term is defined in section 401(f)(1) of the NGPA as:

> [A]ny use of natural gas—
> (A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or
> (B) as a *process fuel* or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food, * * * (emphasis added)

In April 1980 the Secretary issued a rule (45 FR 27741, April 24, 1980) defining the term "process fuel" as used in section 401. The Secretary's definition expanded the Commission's traditional definition of the term [2] to include "natural gas used to produce steam which in turn is directly applied in processing of products and for compression of products so that processing may take place * * *" As a result of this definition, boiler fuel users of natural gas who use steam directly in the manufacture of fertilizer, agricultural chemicals, animal feed, or food became eligible for the second curtailment priority as "process" users.

The Secretary's definition of "process fuel" was challenged in court. In the *PGCG* decision, the D.C. Circuit vacated and set aside the definition, stating that (1) this Commission, not the Secretary of Agriculture, has the explicit responsibility for defining technical terms used in the NGPA, and (2) the Secretary's definition is not in accord with the intent of Congress when it enacted the NGPA. The mandate of the court took effect on July 27, 1981, pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure and the procedures of the D.C. Circuit.

Title IV of the NGPA requires that essential agricultural use requirements must be certified by the Secretary of Agriculture in order to obtain priority two status in the curtailment plans of interstate pipelines. The Commission's regulations implementing the essential agricultural use curtailment priority (18 CFR 281.201 *et seq.*) were set forth in Order No. 29 [3] and defined the term "essential agricultural use" as follows [18 CFR 281.203(a)(2)]:

> (2) "Essential agricultural use" means any use of natural gas which is certified by the Secretary of agriculture as an "essential agricultural use" under section 401(c) of the NGPA, as identified in 7 CFR Part 2900, *et seq.*

Section 2900.3 of Part 2900 lists "Fertilizer and Agricultural Chemicals" and "Animal Feeds and Food" as essential agricultural uses, but only to the extent that they are "process and feedstock" uses. Thus boiler fuel users who manufacture these items were certified under § 2900.3 only for so long as the Secretary's regulation in § 2900.2(e) defined their use as "process fuel" use. That regulation has not been vacated and set aside by court order.

On the basis of the Secretary's definiition, essential agricultural users that use natural gas to raise steam which is then utilized in the manufacturing of fertilizer, agricultural chemicals, animal feed, and food claimed their entitlement to priority two curtailment status during the summer of 1980, the time at which the interstate pipelines undertook their update of the index of entitlements under 18 CFR 281.204 of the Commission's regulations.

## Effect of Judicial Decision

The mandate of the court in *PGCG* removes tha above-described uses of natural gas from the Secretary's list of certified "essential agricultural uses." Thus these uses no longer fall within the Commission's definition of "essential agricultural uses" for purposes of determining curtailment priorities. Interstate pipelines are collecting data for the 1981 update of the index of entitlements, and revised tariff sheets must be filed with the Commission on September 15, 1981, to become effective on November 1, 1981.[4] The removal of these uses from the definition of "essential agricultural uses" constitutes a change in essential agricultural requirements within the meaning of § 281.211(d)(4) of the Commission's regulations. The index of entitlements must be revised accordingly.

As noted by the court, it is still open to the Commission to adopt a definition of "process fuel" under Title IV of the NGPA. Whether such a definition would restore some of the volumes downgraded by the court's decision or whether a new curtailment priority (*e.g.*, below the Title IV priorities but above the general boiler fuel priorities in which such downgraded volumes would otherwise be placed) might be appropriate are matters on which we express no opinion here. In view of the need to have updated indexes of entitlements in place by the onset of the heating season, it is sufficient for us to describe the immediate impact of the court's decision.

*The Commission orders:*

(A) No index of entitlements filed with the Commission on or after September 15, 1981, or in effect on or after November 1, 1981, shall include in the essential agricultural use priority volumes of natural gas attributable to boiler fuel use by the manufacturers of fertilizer, agricultural chemicals, animal feed, or food.

(B) The petition of the Process Gas Consumers Group and the United Distribution Companies seeking revision of the data collection schedule is denied.

By the Commission.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26483 Filed 9-9-81; 8:45 am]
BILLING CODE 6450-85-M

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[1] The Commission issued an order delineating the effect of the court's decision on incremental pricing on July 31, 1981 in Docket Nos. RM79-14, RM80-18 and RM80-75 (46 FR 41034; August 14, 1981).

[2] Codified at 18 CFR 2.78(c)(8).

[3] Docket No. RM 79-15, issued May 1, 1979, 44 FR 26855 (May 8, 1979).

[4] On July 15, 1981 the Process Gas Consumers Group and the United Distribution Companies filed a petition seeking revision of the data collection schedule set out in Part 281 of the Commission's Regulations, in order to permit the interstate pipelines and other persons involved to obtain the data necessary to take account of the court's decision in *PGCG*. We believe the present schedule provides an adequate amount of time to make the appropriate revisions. We note that three weeks remain before the revised index must be filed with the Commission. We understand the number of end-users involved in this change to be a relatively small and known group of customers. To the extent that a particular pipeline encounters difficulty in meeting the September 15, 1981 filing deadline, a request for an extension of time should be addressed to the Secretary under § 375.302 of the Commission's Regulations.

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## DEPARTMENT OF THE TREASURY

## Customs Service

## 19 CFR Part 151

**[T.D. 81-240]**

## Customs Regulations Amendments Relating to the Examination of Merchandise

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations to provide that: (1)

At ports of entry specifically designated by the Commissioner of Customs, the district director of Customs is authorized to release, without examination, merchandise of a character which he has determined need not be examined in every instance to ensure the protection of the revenue and enforcement of Customs and other laws; and, (2) the district director shall order the examination of such packages or quantities of merchandise as he deems necessary to ensure compliance with the Customs laws and any other laws enforced by the Customs Service.

The amendments will allow Customs to improve the effectiveness of Customs cargo inspections and to expedite the entry of merchandise.

**EFFECTIVE DATE:** October 13, 1981.

**FOR FURTHER INFORMATION CONTACT:** Victor Weeren, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington D.C. 20029 (202–566–5354).

**SUPPLEMENTARY INFORMATION:**

## Background

Section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499), provides that not less than one package of every invoice and not less than one of every 10 packages of imported merchandise shall be opened and examined. However, if the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that examination of a lesser proportion of packages will amply protect the revenue, by special regulation or instruction, the application of which may be restricted to one or more individual ports, one or more importations, or to one or more classes of merchandise, he may permit a lesser number of packages to be examined.

Section 151.2, Customs Regulations (19 CFR 151.2), implements 19 U.S.C. 1499 by providing that not less than one of every 10 packages of merchandise shall be examined unless a special regulation permits a lesser number of packages to be examined. Section 151.2 further provides that district directors are authorized specially to examine less than one of every 10 packages, but not less than one package of every invoice, in the case of any merchandise imported in packages: (1) The contents and values of which are uniform; or, (2) the contents of which are identical as to character although differing as to quantity and value per package.

Section 151.1, Customs Regulations (19 CFR 151.1), provides that the district director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for other Customs purposes.

To improve the effectiveness of cargo inspections and to expedite the entry of merchandise, Customs published a notice in the Federal Register on November 19, 1980 (45 FR 76449), proposing to amend:

(1) Section 151.2(a) to provide that, at ports of entry specifically designated by the Commissioner of Customs, the district director would be authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure protection of the revenue and enforcement of Customs and other laws; and,

(2) Section 151.1 to clarify that Customs officers may examine shipments to ensure compliance with any other laws enforced by the Customs Service, as well as with the Customs laws.

The notice invited interested persons to submit comments regarding the proposal by January 19, 1981. In response, 27 comments were received from individuals, members of Congress, corporations, ports and port authorities, customs brokers, freight forwarders, and trade associations. Of the comments received, 23 unquestionably favor the proposal. These commenters are of the opinion that the change would result in a smoother flow of cargo due to more efficient use of Customs manpower, fewer time delays, and reductions in importer costs, particularly due to fewer demurrage charges.

Three commenters oppose the change. One of the opposing commenters points to the potential for encouraging fraud and collusion because some cargo will not be examined at designated ports.

The potential for fraud always is present. However, Customs is able to control this with its enforcement units—Investigations, Regulatory Audit, Patrol, and Special Enforcement Teams. The commodity knowledge of the import specialists and their participation with Customs enforcement units also are effective in detecting and deterring fraud and deceptive practices. Further, existing automated and manual information systems, as well as those under development, are designed to provide detailed information to aid in this process. These enforcement efforts will not be affected by the adoption of this proposal.

Effective with implementation of these changes, a random percentage of imports will continue to be selected for intensive examination. Also, at any time the district director may order an intensive examination of merchandise which he previously had exempted from examination. In addition, audits will be conducted in ports where this type of selective examination is in operation. Customs is of the opinion that these additional checks will provide deterrence factors.

Another commenter expresses concern that great care must be taken to distinguish between similar types of merchandise which are dutiable at different rates depending on the intended use.

Customs agrees. However, we do not anticipate that this will be a problem because verification of intended use of merchandise is made at the time the merchandise is classified for tariff purposes, not at the time of inspection. This change will not affect that procedure.

The third commenter opposed to the proposal is of the opinion that it exceeds the authority of 19 U.S.C. 1499, because it contemplates the release of merchandise, no part of which has been examined.

After a detailed review of the applicable statutory and case law, Customs has determined that the proposal is within the authority of 19 U.S.C. 1499.

In addition, one commenter, without addressing the desirability of the proposal, questions the legality of delegating this authority to the district director.

Section 2 of Reorganization Plan No. 26 of 1950 (eff. July 13, 1950, 15 FR 4935, 64 Stat. 1280) provides that the Secretary of the Treasury may authorize the performance by any other officer, or by any agency or employee, of the Department of the Treasury of any function of the Secretary. This plan was promulgated under the authority of the Reorganization Act of 1949, Pub. L. 109, 81st Cong., 63 Stat. 203, section 3 of which specifically authorized the President to authorize any officer to delegate any of his functions if that would promote more effective management, promote economy or increase the efficiency of the executive branch of Government.

Customs is of the opinion that the effect of the Reorganization Act of 1949 and Reorganization Plan No. 26 of 1950 is to permit the Secretary to delegate to subordinate officers the determination that examination of a less proportion of packages will amply protect the revenue as provided in the statute.

## Executive Order 12291

Because this will not result in a "major rule" as defined by section 1(b) of Executive Order 12291, the regulatory

impact analysis and review prescribed by section 3 of the Executive Order is not required.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code (as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act") because it was the subject of a notice of proposed rulemaking issued before January 1, 1981, the effective date of the Act.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Information Division, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Adoption of the Proposed Regulations

The proposed regulations set forth in the notice published in the Federal Register on November 19, 1980 (45 FR 87449), are adopted as set forth below.

Approved: August 27, 1981.

William T. Archey,

*Acting Commissioner of Customs.*

John P. Simpson,

*Acting Assistant Secretary of the Treasury.*

Amendments to the Regulations

Part 151, Customs Regulations (19 CFR Part 151), is amended to read as follows:

## PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

### Subpart A—General

**§ 151.1 Merchandise to be examined.**

The district director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for compliance with the Customs laws and any other laws enforced by the Customs Service.

**§ 151.2 Quantities to be examined.**

(a) (1) *Minimum quantities.* Not less than one package of every 10 packages of merchandise shall be examined, unless a special regulation permits a lesser number of packages to be examined. District directors are specially authorized to examine less than one package of every 10 packages, but not less than one package of every invoice, in the case of any merchandise which is:

(i) Imported in packages the contents and values of which are uniform, or

(ii) Imported in packages the contents of which are identical as to character although differing as to quantity and value per package.

(2) *Exceptions to minimum quantities.* At ports of entry specifically designated by the Commissioner of Customs, the district director is authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure the protection of the revenue and compliance with the Customs laws and any other laws enforced by the Customs Service.

(R.S. 251, as amended, secs. 499, 624, 46 Stat. 728, as amended, 759, General Headnotes 11, 12, Tariff Schedules of the United States (19 U.S.C. 66, 1202, 1499, 1624))

[FR Doc. 81-26460 Filed 9-9-81; 8:45 am]

BILLING CODE 4810-22-M

## ENVIRONMENTAL PROTECTION AGENCY

### 21 CFR Part 193

**[FAP 8H5193/T72; PH-FRL 1901-7]**

### Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Aldicarb

*Correction*

In FR Doc. 81-22795 appearing at page 39828 in the issue for Wednesday, August 5, 1981, make the following correction:

On page 39829, in the first column, in § 193.15(a), in the eighth line, "methylsulfonyl" should have read "methylsulfinyl"

BILLING CODE 1505-01-M

### 40 CFR Part 52

**[A-7-FRL-1899-7]**

### Approval and Promulgation of Implementation Plans; State of Missouri

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final rulemaking.

**SUMMARY:** In order to satisfy the requirements of Part D of the Clean Air Act (CAA), as amended, the State of Missouri revised its State Implementation Plan (SIP) in 1979. On April 9, 1980, EPA conditionally approved certain elements of Missouri's plan. On April 14, 1981, the State submitted a revision to the regulations for the purpose of fulfilling one of these conditions. The condition required the State to either revise its regulation for emissions of volatile organic compounds (VOC) in St. Louis during gasoline loading operations, to be consistent with the emission limit recommended by the Control Techniques Guidelines (CTGs) or to provide adequate justification that its regulation is reasonable available control technology (RACT).

The purpose of this notice is to advise the public that EPA is taking final action to approve the State's regulatory change and is incorporating it into the approved SIP. The applicable condition is being removed. Until all conditions are met, conditional approval of the SIP will continue.

**EFFECTIVE DATE:** This promulgation is effective October 13, 1981.

**ADDRESSES:** Copies of the State submission are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106; Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460; and Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101. A copy of the state submission is also available at the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Mary C. Carter at (816) 374-3791; FTS 758-3791.

**SUPPLEMENTARY INFORMATION:** On April 9, 1980, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of Part D of the Clean Air Act, as amended. A detailed discussion of that action can be found in the Federal Register notice published on that date (45 FR 24140).

One of the conditions promulgated by the EPA required the State to revise its regulation for VOC emissions during gasoline loading operations to be consistent with the emission limit recommended by the Control Techniques Guidelines (0.30 grams per gallon of gasoline loaded) or to provide adequate economic justification for accepting its regulation. This condition was to be met and submitted to the EPA by March 15, 1981.

On January 2, 1981, the State published in the *Missouri Register* a proposed revision to Section (3) of Missouri Rule 10 CSR 10-5.220, Control of Petroleum Liquid Storage, Loading and Transfer for the St. Louis ozone nonattainment area. This revision changes the VOC emission limitation for the St. Louis area from 0.50 to 0.30 grams per gallon of gasoline loaded.

On March 25, 1981, the Missouri Air Conservation Commission adopted the proposed revision to Section (3) of Rule 10 CSR 10-5.220. The State submitted it to EPA as a revision to the Missouri SIP on April 14, 1981. A notice of receipt of the SIP submission was published on May 26, 1981 (46 FR 28155). No comments were received in response to the May 26th notice of receipt. EPA has reviewed the State's submission and finds that the condition on its approval has been fully met.

EPA finds that further notice and comment on this issue are unnecessary. The corrective action was clearly identified in EPA's promulgation and the State's submittal clearly addressed the specified criteria for approval.

### Action

EPA approves Section (3) of Rule 10 CSR 10-5.220 as RACT for the St. Louis ozone nonattainment area. EPA is incorporating the regulatory change into the SIP and is removing the applicable condition. This action also serves to continue EPA's conditional approval of the SIP until all conditions have been met.

Pursuant to the provision of 5 U.S.C. 605(b) I certify that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. The attached rule constitutes a SIP approval under Sections 110 and 172 of the Clean Air Act. This action only approves State actions and imposes no additional substantive requirements.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves State actions and imposes no additional substantive requirements which are not currently applicable under State law. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 110, Clean Air Act as amended)

Dated: August 19, 1981.

Note.—Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1981.

Anne M. Gorsuch,

*Administrator.*

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

### Subpart AA—Missouri

1. Section 52.1320 is amended by revising paragraph (c)(16)(iii) and by adding a new paragraph (c)(29) to read as follows:

**§ 52.1320 Identification of plan.**

* * * * *

(c) The plan revisions listed below were submitted on the dates specified:

* * * * *

(16) * * * Included in the plan are the following approved regulations:

* * * * *

(iii) Rule 10 CSR 10-5.220 Control of Petroleum Liquid Storage, Loading and Transfer (St. Louis) is approved as RACT.

* * * * *

(29) A revision to Rule 10 CSR 10-5.220 Control of Petroleum Liquid Storage, Loading and Transfer (St. Louis), submitted on April 14, 1981, amending the emission limit in Section 3, is approved as RACT.

**§ 52.1324 [Amended]**

2. Section 52.1324 is amended by removing paragraph (c)(2).

[FR Doc. 81-26303 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-38-M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Public Land Order 5990

[M-41591]

## Montana; Revocation of Stock Driveway Withdrawal No. 27, Montana No. 5

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order revokes a Secretarial order which withdrew public lands for use as a stock driveway. This action will restore the lands to operation of the public land laws generally.

**EFFECTIVE DATE:** October 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** Roland F. Lee, Chief, Branch of Lands and Minerals Operations, Montana State Office, 406-657-6291.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976; 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of October 26, 1922, which withdrew the following described public lands for a stock driveway, is hereby revoked:

Principal Meridian

T. 13 S., R. 11 W.,

Sec. 19, lot 3, NE¼SW¼, and N½SE¼.

This area described contains 155.38 acres in Beaverhead County.

2. At 8 a.m. on October 7, 1981, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on October 7, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands have been and continue to be open to location under the mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: September 1, 1981.

Garrey E. Carruthers,

*Assistant Secretary of the Interior.*

[FR Doc. 81-26404 Filed 9-9-81; 8:45 am]

BILLING CODE 4310-84-M

## 43 CFR Public Land Order 5991

[M-41807]

## Montana; Partial Revocation of Public Water Reserve No. 64

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order partially revokes an Executive order affecting 60 acres of land withdrawn as a public water reserve. This action will restore the lands to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

**EFFECTIVE DATE:** October 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** Roland F. Lee, Montana State Office, 406-657-6291.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of June 5, 1919, which withdrew lands for use as a public water reserve, is hereby revoked so far as it affects the following lands:

Principal Meridian

T. 2 N., R. 5 W.,
Sec. 2, W½NE¼SW¼ and NW¼SW¼.

The area described contains 60 acres in Jefferson County.

2. At 8 a.m. on October 7, 1981, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on October 7, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to nonmetalliferous mineral location under the United States mining laws at 8 a.m. on October 7, 1981. They have been and continue to be open to metalliferous mineral location under the mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Dated: September 1, 1981.

Garrey E. Carruthers,

*Assistant Secretary of the Interior.*

[FR Doc. 81-26405 Filed 9-9-81; 8:45 am]

BILLING CODE 4310-84-M

## 43 CFR Public Land Order 5992

[A-5942]

## Arizona; Powersite Restoration No. 706; Revocation of Powersite Reserve Nos. 531, 558, 610, 670, 691, 717, and 719; Partial Revocation of Waterpower Designation No. 9

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order will revoke several Executive orders and one Departmental order which withdrew certain lands in Arizona for primary transmission line right-of-way purposes. The lines still in existence are authorized by right-of-way permits and the withdrawals no longer serve a useful purpose. The public lands not otherwise reserved will be restored to operation of the public land laws generally. The national forest lands, not otherwise reserved, will be opened to such forms of disposition as may by law be made of such lands.

**EFFECTIVE DATE:** October 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mario L. Lopez, Arizona State Office, 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-152 (Arizona), it is ordered as follows:

1. The Executive Orders of June 30, 1916, October 30, 1916, April 11, 1917, December 5, 1917, September 6, 1918, May 17, 1919, and May 24, 1919, creating Powersite Reserve Nos. 531, 558, 610, 670, 691, 717, and 719 respectively and the Departmental Order of February 7, 1917, creating Waterpower Designation No. 9 (AR-6), are hereby revoked so far as they effect the lands described in paragraph 7.

2. At 10 a.m. on October 7, 1981, the unappropriated, unreserved public lands described in paragraph 7, shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 7, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on October 7, 1981, the national forest lands shall be open to such forms of disposition as may by law be made of national forest lands.

4. The lands included in the Cabeza Prieta National Game Range are temporarily segregated from operation of the public land laws generally, including the mining and mineral leasing laws in accordance with Notice of Proposed Withdrawal A-7951 published in the Federal Register December 22, 1977 (42 FR 64149).

5. The unappropriated public and national forest lands have been and will continue to be open to the filing of applications and offers under the mineral leasing laws, and to location under the United States mining laws, subject to the provision of the Act of August 11, 1955 (69 Stat. 681; 30 U.S.C. 621).

6. The State of Arizona has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

7 The lands affected by this order are described as follows:

Gila and Salt River Meridian

Waterpower Designation No. 9 (AR-6) as interpreted April 10, 1926, April 12, 1926, August 15, 1929, March 1, 1933, November 16, 1933, October 17, 1934, November 1, 1935, January 29, 1936, and April 8, 1941:

All portions of the following described lands lying within 50 feet of the centerline of the constructed transmission line of the Arizona Power Company:

T. 11½ N., R. 1 E. (unsurveyed),
All.

T. 12 N., R. 1 E.,
Sec. 4, lots 3 to 6, inclusive, 9 to 11, inclusive, 53, SW¼NW¼, N½SW¼, SW¼SW¼;
Sec. 5, lots 1 to 4, inclusive, SE¼NE¼;
Sec. 9, lots 1 to 4, inclusive, W½SE¼;
Sec. 10, W½NE¼, SE¼NE¼, N½NW¼, SE¼NW¼, NE¼SE¼;
Sec. 11, SW¼NW¼, N½S½;
Sec. 12, S½NE¼, SE¼NW¼, N½S½;
Sec. 16, lots 1, 4, 14 (formerly lot 5), NE¼NE¼, lots 15 and 16 and MS 3733 and 3686 (formerly SE¼SE¼);
Sec. 22, lot 8;
Sec. 26, lots 1, 3, 6, SE¼NW¼, SW¼SE¼;
Sec. 35, lots 1, 2, 3, NE¼NE¼, W½SE¼, (formerly E½NE¼, N½SE¼, SW¼SE¼).

T. 13 N., R. 1 E.,
Sec. 1, NW¼SW¼;
Sec. 11, E½SE¼;
Sec. 12, NW¼NW¼;
Sec. 14, E½NE¼;
Sec. 22, lots 5, 7, 8, (formerly unsurveyed NE¼SE¼, S½SE¼);
Sec. 23, lots 3, 4, 37B (MS), SW¼NE¼, (formerly unsurveyed SW¼NE¼, N½SW¼);
Sec. 27, lots 2, 3, 4, S½NW¼, NW¼SW¼, (formerly unsurveyed NW¼NE¼, NW¼, NW¼SW¼);
Sec. 28, lots 5, 6, lot 1673 (MS), SE¼NE¼, NE¼SE¼, (formerly unsurveyed SE¼NE¼, NE¼SE¼, S½SE¼);
Sec. 30, lots 11 to 15, inclusive;
Sec. 31, lots 1 to 4, inclusive, 7 to 10, inclusive, 12 to 15, inclusive, lot 42 (MS), SE¼SW¼ (formerly lots 1 to 4, inclusive, 7 to 9, inclusive, 12 to 15, inclusive W½NE¼, E½SW¼);
Sec. 32, lots 2, 3, 4, E½SW¼, SW¼SE¼;
Sec. 33, lots 1, 2, 4, 5, 7, 9, 10, and 1673 (MS), and ME patents in NE¼SW¼ (formerly unsurveyed N½NE¼, SW¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, NW¼SE¼).

T. 12 N., R. 2 E.,
Sec. 7, lots 5, 6, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, (formerly unsurveyed S½N½, N½S½);
Sec. 8, lots 1, 2, and 4, SW¼NW¼, NW¼SW¼, NE¼SW¼, NW¼SE¼,

(formerly SW¼NW¼, N½SW¼, SE¼SW¼, W½SE¼, SE¼SE¼);
Sec. 9, SW¼SW¼;
Sec. 13, SW¼SW¼;
Sec. 14, NW¼SW¼, S½S½;
Sec. 15, SW¼NE¼, S½NW¼, N½SE¼, SE¼SE¼;
Sec. 16, NW¼NE¼, S½NE¼, N½NW¼;
Sec. 17, lot 1 (formerly NE¼NE¼);
Sec. 24, N½N½, SE¼NE¼.

T. 15 N., R. 2 E. (unsurveyed),
All.

T. 16 N., R. 2 E., (partially surveyed),
Sec. 22, all;
Sec. 26, NW¼NW¼;
Sec. 27, all;
Sec. 33, all;
Sec. 34, all.

T. 12 N., R. 3 E.,
Sec. 19, lot 2, SW¼NE¼, SE¼NW¼, N½SE¼;
Sec. 20, W½SW¼, SE¼SW¼, S½SE¼;
Sec. 21, SW¼SW¼;
Sec. 26, NW¼SW¼, SW¼SE¼;
Sec. 27, S½NW¼, NE¼SW¼, N½SE¼;
Sec. 28, W½NE¼, SE¼NE¼, N½NW¼;
Sec. 29, NE¼NE¼;
Sec. 35, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 36, lots 1, 2, SW¼NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼.

T. 11 N., R. 4 E., (partially surveyed),
Sec. 3, S½SW¼;
Sec. 4, N½S½, S½SE¼;
Sec. 5, S½N½, N½SE¼;
Sec. 6, lots 1, 2, and 3, SE¼NE¼, (formerly N½NE¼, SE¼NE¼, NE¼NW¼);
Sec. 10, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 11, NE¼, S½NW¼;
Sec. 12, N½.

T. 12 N., R. 4 E.,
Sec. 31, lots 3, 4, SE¼SW¼, SW¼SE¼.

T. 14 N., R. 4 E.,
Sec. 6, lots 3, 4, 5, 9, 10, HES 330, SE¼NW¼, (formerly lots 3, 4, 5, SE¼NW¼, NE¼SW¼, W½SE¼, SE¼SE¼);
Sec. 16, SW¼NW¼, SW¼;
Sec. 21, W½NE¼, SE¼NE¼, NE¼NW¼, E½SE¼;
Sec. 22, W½SW¼, SE¼SW¼;
Sec. 26, lot 13 (formerly SW¼SW¼);
Sec. 27, W½NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 35, lots 3, 4, 6, 7, 9, W½NW¼, SW¼NE¼, W½SE¼ (formerly unsurveyed SW¼NE¼, NW¼, NE¼SW¼, SE¼).

T. 16 N., R. 4 E.,
Sec. 25, N½;
Sec. 26, N½N½;
Sec. 27, N½N½.

T. 11½ N., R. 5 E., (unsurveyed),
All.

T. 12 N., R. 5 E., (unsurveyed),
All.

T. 11½ N., R. 6 E., (unsurveyed),
All.

T. 12 N., R. 6 E., (unsurveyed),
All.

T. 12 N., R. 1 W.,
All.

T. 13 N., R. 1 W.,
Sec. 30, lots 28, 31;
Sec. 31, lots 11, 12, 16;
Sec. 32, lots 10, 11, 12, 14, SW¼NW¼;
Sec. 33, lot 16, SE¼SW¼, S½SE¼;
Sec. 34, S½SW¼, SE¼;
Sec. 35, lots 4, 6, 7, N½SW¼;
Sec. 36, lots 10, 11, 12, SE¼SE¼.

T. 12 N., R. 2 W.,
All.

T. 13 N., R. 2 W.,
Sec. 10, lot 1;
Sec. 11, lots 3, 4, 6, 7, 9, 10, 11, 15, 16;
Sec. 13, lots 4, 5, 11 to 14, inclusive;
Sec. 14, lots 1, 2, 8, 9, 16;
Sec. 15, lots 4, 5, 6, 11;
Sec. 22, lots 2, 8;
Sec. 24, lots 3 to 6, inclusive, 10 to 12, inclusive, 14 to 16, inclusive;
Sec. 25, lots 14, 15;
Sec. 26, lot 28.

All portions of the following described lands in Arizona lying within 50 feet of the centerline of the constructed transmission line of the Arizona Power Company, as shown on maps filed with its application (Phoenix 037837) and on public land surveys made subsequent to construction:

T. 16 N., R. 2 E., (partially surveyed),
Sec. 23, lot 11, S½SE¼;
Sec. 24, S½S½.

T. 15 N., R. 3 E.
Sec. 4, lot 4;
Sec. 9, lot 3, SE¼NE¼;
Sec. 15, lots 1, 2, 5, 6, S½SE¼;
Sec. 22, lot 1;
Sec. 23, lots 4, 5, SE¼NW¼, E½SW¼, W½SE¼;
Sec. 25, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 26, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 36, W½NE¼, E½NW¼, N½SE¼, SE¼SE¼.

T. 13 N., R. 4 E.,
Sec. 1, lots 6, 7, 9, SW¼NW¼, N½SW¼, SE¼SW¼;
Sec. 2, lot 1, (formerly unsurveyed NE¼NE¼);
Sec. 12, lot 3, W½NE¼, E½SE¼.

T. 13 N., R. 5 E., (partially surveyed),
Sec. 7, lot 10;
Sec. 17, lot 7;
Sec. 18, lot 1, SW¼NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 20, lots 1, 2, 3, 4, 6, 7, 11;
Sec. 28, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 29, N½NE¼, SE¼NE¼;
Sec. 33, lots 1, 2, 6 to 9 inclusive, 15;
Sec. 34, lot 9.

All portions of the following described tracts within 50 feet of the centerline of the constructed transmission line of the Magma Copper Company, permit for which was issued by the Forest Service February 21, 1914:

T. 1 S., R. 12 E.,
Sec. 35, lot 2;
Sec. 36, N½NE¼ and NE¼NW¼ (formerly lots 1 and 2 and NE¼NE¼).

All portions of the following described lands lying within 50 feet of the centerline of the constructed transmission line of the Calument and Arizona Mining Company:

T. 2 S., R. 12 E.,
Sec. 12, N½SW¼, SE¼SW¼;
Sec. 13, E½W½, W½SE¼;
Sec. 24, W½E½, E½SE¼;
Sec. 25, E½E½;
Sec. 36, E½NE¼.

T. 2 S., R. 13 E.,
Sec. 31, lot 4 (formerly W½W½ and SE¼SW¼).

All portions of the following described lands lying within 50 feet of the centerline of the constructed transmission line of the Magma Copper Company:

T. 1 S., R. 13 E., (partially surveyed),
Sec. 12, NE¼SE¼, S½SE¼;
Sec. 13, NW¼NE¼, N½NW¼, SW¼NW¼;
Sec. 14, S½NE¼, SW¼, NW¼SE¼;
Sec. 15, SE¼SE¼;
Sec. 21, E½SE¼;
Sec. 22, N½NE¼, SW¼NE¼, S½NW¼, NW¼SW¼;
Sec. 28, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼, NW¼SW¼;
Sec. 29, lots 4 and 5, part of MS 4674, SE¼NE¼, and NE¼SE¼;
Sec. 30, SE¼SE¼ (formerly lot 4);
Sec. 31, NE¼NE¼.

T. 1 S., R. 14 E.,
Sec. 3, lots 1, 2, S½NE¼, SE¼NW¼, N½SW¼, SW¼SW¼ (formerly NE¼, SE¼NW¼, N½SW¼, SW¼SW¼);
Sec. 4, S½SW¼, NE¼SE¼, S½SE¼;
Sec. 5, SE¼SE¼;
Sec. 7, Lots 3, 5, 6, S½NE¼, NE¼SW¼, S½NW¼SW¼SW¼, E½SW¼ SW¼SW¼, E½SW¼SW¼, NW¼SE¼ (formerly S½NE¼, N½SW¼, SW¼SW¼, NW¼SE¼);
Sec. 8, N½N½, SW¼NW¼;
Sec. 9, NW¼NW¼.

Powersite Reserve No. 531 (AR-1)

All portions of the following described land lying within 50 feet of the centerline of the right-of-way shown on a map in one sheet, filed on November 3, 1913, as part of the application (Phoenix 023678) of the United Verde Copper Company:

T. 16 N., R. 3 E.,
Sec. 30, SE¼NE¼;
Sec. 31, lot 1.

Powersite Reserve No. 558 (AR-2)

All portions of the following described lands lying within 50 feet of the centerline of the constructed transmission line of the Arizona Power Company (as interpreted April 12, 1926, August 15, 1929, March 1, 1933, November 16, 1933, October 17, 1934, and November 1, 1935):

T. 12 N., R. 1 E.,

Sec. 4, lots 3 to 6, inclusive, 9 to 11, inclusive, 53, SW¼NW¼, N½SW¼, SW¼SW¼;
Sec. 5, lots 1 to 4, inclusive, SE¼NE¼;
Sec. 9, lots 1 to 4, inclusive, W½SE¼;
Sec. 10, W½NE¼, SE¼NE¼, N½NW¼, SE¼NW¼, NE¼SE¼;
Sec. 11, SW¼NW¼, N½S½;
Sec. 12, S½NE¼, SE¼NW¼, N½S½;
Sec. 16, lots 1, 4, 14 (formerly lot 5), NE¼NE¼, lots 15 and 16 and MS 3733 and 3686 (formerly SE¼SE¼);
Sec. 22, lot 8;
Sec. 26, lots 1, 3, 6, SE¼NW¼, SW¼SE¼;
Sec. 35, lots 1 to 3 inclusive, NE¼NE¼, W½SE¼ (formerly E½NE¼, N½SE¼, SW¼SE¼).

T. 13 N., R. 1 E.,
Sec. 1, NW¼SW¼;
Sec. 11, E½SE¼;
Sec. 12, NW¼NW¼;
Sec. 14, E½NE¼;
Sec. 22, lots 5, 7, 8 (formerly unsurveyed NE¼SE¼ and S½SE¼);
Sec. 23, lots 3, 4, 37B (MS), SW¼NE¼ (formerly unsurveyed SW¼NE¼, N½SW¼);
Sec. 27, lots 2 to 4 inclusive, S½NW¼, NW¼SW¼ (formerly unsurveyed NW¼NE¼, NW¼, NW¼SW¼);
Sec. 28, lots 5, 6, 1673 (MS), SE¼NE¼, NE¼SE¼ (formerly unsurveyed SE¼NE¼, NE¼SE¼, S½SE¼);
Sec. 30, lots 11 to 15, inclusive;
Sec. 31, lots 1 to 4, inclusive, 7 to 10, inclusive, 12 to 15, inclusive, 42 (MS), SE¼SW¼ (formerly lots 1 to 4, inclusive, 7 to 9, inclusive, 12 to 15 inclusive, W½NE¼, E½SW¼);
Sec. 32, lots 2 to 4 inclusive, E½SW¼, SW¼SE¼;
Sec. 33, lots 1, 2, 4, 5, 7, 9, 10, 1673 (MS), ME patents in NE¼SW¼ (formerly unsurveyed N½NE¼, SW¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, NW¼SE¼).

T. 12 N., R. 2 E.,
Sec. 7, lots 5, 6, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼ (formerly unsurveyed S½N½, N½S½);
Sec. 8, lots 1, 4 (formerly SE¼SW¼), SW¼NW¼, NW¼SW¼;
Sec. 9, SW¼SW¼;
Sec. 15, SW¼NE¼, S½NW¼, N½SE¼;
Sec. 17, lot 1;
Sec. 24, N½N½, SE¼NE¼.

T. 12 N., R. 3 E.,
Sec. 19, lot 2, SE¼NW¼, NE¼SW¼, N½SE¼.

T. 15 N., R. 3 E.,
Sec. 4, lot 4;
Sec. 9, lot 3, SE¼NE¼;
Sec. 15, lots 1, 2, 5, 6, S½SE¼;
Sec. 22, lot 1;
Sec. 23, lots 4, 5, SE¼NW¼, E½SW¼, W½SE¼;
Sec. 25, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 26, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 36, W½NE¼, E½NW¼, N½SE¼, SE¼SE¼.

T. 13 N., R. 4 E.,
Sec. 1, lots 6, 7, 9, SW¼NW¼, N½SW¼, SE¼SW¼;
Sec. 2, lot 1 (formerly unsurveyed NE¼NE¼);
Sec. 12, lot 3, W½NE¼, E½SE¼.

T. 14 N., R. 4 E.,
Sec. 6, lots 3 to 5 inclusive, 9, 10, HES 330, SE¼NW¼ (formerly lots 3, 4, 5, SE¼NW¼, NE¼SW¼, W½SE¼, SE¼SE¼);
Sec. 16, SW¼NW¼, SW¼;
Sec. 22, NW¼SW¼, S½SW¼;
Sec. 26, lot 13 (formerly SW¼SW¼);
Sec. 35, lots 3, 4, 6, 7, 9, W½NW¼, SW¼NE¼, W½SE¼ (formerly SW¼NE¼, NW¼, NE¼SW¼, SE¼).

T. 13 N., R. 5 E. (partially surveyed),
Sec. 7, lot 10;
Sec. 17, lot 7;
Sec. 18, lot 1, SW¼NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 20, lots 1 to 4 inclusive, 6, 7, 11;
Sec. 28, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 29, N½NE¼, SE¼NE¼;
Sec. 33, lots 1, 2, 6 to 9 inclusive, 15;
Sec. 34, lot 9.

T. 13 N., R. 2 W.,
Sec. 10, lot 1;
Sec. 11, lots 3, 4, 6, 7, 9, 10, 11, 15, 16.

**Powersite Reserve No. 610 (AR–3)**

All unpatented lands lying within 50 feet of the centerline of the right-of-way shown on a map entitled "Alignment of 6600-volt Transmission Line from Ajo, Arizona, to Luna, Old Ore, and Little Ajo Mill Sites Well No.1," bearing affidavit of John S. Olmstead, Engineer, Subscribed to on September 20, 1916, and certificate of Charles Briggs, President, and described in field notes of location, the former being a part of Exhibit J(2) and the latter a part of Exhibit K of an application (Phoenix 031547) filed in the Phoenix Land Office on November 9, 1916, by the New Cornelia Copper Company and situated approximately in unsurveyed Tps. 11 and 12 S., R. 7 W., Gila and Salt River Meridian, Arizona.

**Powersite Reserve No. 670 (AR–4)**

All portions of the following described lands lying within 50 feet of the centerline of the transmission line location shown on maps designated Exhibit J, Sheet 1, and Exhibit J, Sheet 2, and filed on July 24, 1917, as part of the application (Phoenix-035802) of the Calumet and Arizona Mining Company:

T. 23 S., R. 24 E.,
Sec. 13, N½S½;
Sec. 14, N½S½;
Sec. 15, N½SE¼, NE¼SW¼.

T. 23 S., R. 25 E.,
Sec. 17, lot 12, S½NE¼ (formerly S½NE¼ and all unpatented lands in S½NW¼);
Sec. 18, lots 3, 5, 6, 7, S½NE¼ (formerly S½N½, NW¼SW¼, and all unpatented lands);
Sec. 21, NE¼NE¼;
Sec. 22, W½NW¼, SE¼NW¼, NE¼SW¼, W½SE¼, SE¼SE¼;
Sec. 26, W½NW¼, SE¼NW¼, NE¼SW¼, W½SE¼, SE¼SE¼;
Sec. 27, NE¼NE¼;
Sec. 35, NE¼NE¼.

T. 23 S., R. 26 E.,
Sec. 31, lot 4 (formerly SW¼SW¼).

T. 24 S., R. 26 E.,
Sec. 6, SE¼NE¼, N½SE¼.

**Powersite Reserve No. 691 (AR–5)**

All portions of the following described lands lying within 50 feet of the centerline of the transmission line location shown on a map in one sheet filed in the District Land Office at Phoenix, Arizona, on January 23, 1918, as part of the application (Phoenix 036140) of the Arizona Gas and Electric Company for right-of-way for an electrical transmission line under the Act of February 15, 1901 (31 Stat. 790):

T. 24 S., R. 14 E.,
Sec. 11, S½SE¼;
Sec. 12, lot 5, SW¼SW¼;
Sec. 14, NW¼NE¼, N½NW¼;
Sec. 15, NE¼, S½NW¼;
Sec. 17, lot 6, E½SE¼.

**Powersite Reserve No. 717**

All portions of the following described lands lying within 50 feet of the centerline of the right-of-way shown on a detailed map in two sheets designated Exhibit J–2, Sheet 1, and Exhibit J–2, Sheet 2, and entitled "Map of Transmission Line Through the Public Lands of the United States for Phelps Dodge Corporation," each sheet bearing affidavit of Roger J. Pelton, Chief Engineer, and certificate of James McLean, Vice President, and filed with application received in the United States Land Office at Phoenix, Arizona on February 27, 1919:

T. 23 S., R. 24 E.,
Sec. 25, S½SW¼, SW¼SE¼;
Sec. 26, S½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼ (except patented mineral entries);
Sec. 27, E½NE¼;
Sec. 36, lots 15, 16, N½NE¼.

T. 23 S., R. 25 E.,
Sec. 31, lots 1, 2, 10, SW¼NE¼, SE¼NW¼, NW¼SE¼ (formerly SW¼NE¼, W½NW¼, SE¼NW¼, N½SE¼, except patented mineral entries);
Sec. 32, lots 3 to 7, inclusive, part of lot 1750 (MS), E½SW¼, (formerly SW¼, S½SE¼);
Sec. 33, lot 1, SE¼SW¼, SE¼SE¼ (formerly SE¼SW¼, S½SE¼ except patented mineral entries);
Sec. 34, S½SW¼ and SW¼SE¼.

T. 24 S., R. 25 E.,
Sec. 1, lots 3, 4, S½N½ (formerly S½NE¼, NW¼);
Sec. 2, lots 1 to 4, inclusive (formerly N½N½);
Sec. 3, lots 1, 2 (formerly N½NE¼);
Sec. 4, lots 3, 4, and ME patents in N½NW¼ (formerly N½NW¼);

Sec. 5, lot 1, (formerly NE¼NE¼).
T. 24 S., R. 26 E.,
Sec. 5, N½SW¼, SE¼SW¼, S½SW¼.

Powersite Reserve No. 719

All portions of the following described lands lying within 50 feet of the centerline of the right-of-way shown on a detailed map in six sheets designated Exhibit J, Sheets 1–6, and entitled "Location Map of the Transmission Lines of the Desert Power and Water Company in Mohave County, Arizona." Each sheet bears affidavit of Herman C. Zulch, U.S. Mineral Surveyor, and certificate of F. A. Wilde, President, and was received with application filed in the United States Land Office at Phoenix, Arizona, December 31, 1918 (as interpreted May 9, 1957):

T. 20 N., R. 17 W.,
Sec. 4, lots 3 to 5, inclusive, 10 to 12, inclusive (formerly NW¼);
Sec. 5, lots 1, 2, 5 to 12, inclusive, SW¼, N½SE¼ (formerly NE¼, S½NW¼, SW¼, N½SE¼);
Sec. 6, SE¼;
Sec. 7, lots 6 to 20, inclusive, NE¼, N½SE¼ (formerly NE¼, S½NW¼, SW¼, N½SE¼);
Sec. 18, lots 1 to 10, inclusive (formerly NW¼).
T. 21 N., R. 17 W.,
Sec. 1, lot 2, SW¼NE¼, W½SE¼ (formerly W½E½);
Sec. 12, W½NE¼, NE¼SW¼;
Sec. 13, NE¼NW¼, S½NW¼, W½SW¼;
Sec. 23, E½E½, SW¼SE¼;
Sec. 26, NW¼NE¼, NW¼, W½SW¼;
Sec. 34, lots 2 to 5, inclusive, NE¼SE¼ (formerly SE¼SW¼, NE¼SE¼, S½SE¼);
Sec. 35, W½NW¼, NW¼SW¼.
T. 22 N., R. 17 W.,
Sec. 4, lots 15 to 17, inclusive;
Sec. 5, lots 23 to 25, inclusive, 27 to 33, inclusive;
Sec. 6, lots 14, 15, 21 to 24, inclusive.
T. 23 N., R. 17 W.,
Sec. 18, lots 3 and 6 (formerly unsurveyed SW¼NW¼ and NW¼SW¼).
T. 19 N., R. 18 W.,
Sec. 6, SE¼NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼.
T. 20 N., R. 18 W.,
Sec. 13, SE¼NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 24, N½NW¼, SW¼NW¼;
Sec. 26, N½NW¼;
Sec. 28, SE¼SE¼.
T. 22 N., R. 18 W.,
Sec. 1, lot 1 (formerly NE¼NE¼).
T. 23 N., R. 18 W.,
Sec. 3, lots 6, 9, 10, 12, 13, 18, E½SW¼;
Sec. 10, lots 10 to 12, inclusive, 17, NW¼NE¼, NE¼NW¼;
Sec. 11, lot 17;
Sec. 13, lots 8, 14, 15;
Sec. 15, W½NE¼, SE¼NE¼, E½SE¼;
Sec. 22, NE¼NE¼, S½SE¼;
Sec. 23, lots 5, 6, 9, 10, SW¼SW¼, E½SW¼;
Sec. 24, lots 8, 9, 10, 11, 16, 17;
Sec. 25, lot 24;
Sec. 26, N½NE¼ SW¼NE¼, NE¼NW¼, N½SE¼, SE¼SE¼
T. 24 N., R. 18 W.,
Sec. 34, lots 3 and 4 (formerly unsurveyed S½SE¼).
T. 19 N., R. 19 W.,
Sec. 7, lot 7, SE¼SW¼;
Sec. 11, SE¼SE¼;
Sec. 12, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 14, N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼;
Sec. 15, N½S½;
Sec. 17, lots 1, 2, S½NE¼, SE¼NW¼;
Sec. 18, lot 2, NW¼NE¼, NE¼NW¼.
T. 19 N., R. 20 W.,
Sec. 3, lots 3 and 5, SE¼NW¼, SW¼NE¼, W½SE¼ (formerly SW¼NE¼, E½NW¼, W½SE¼, SE¼SE¼);
Sec. 10, lots 1 to 3, inclusive (formerly E½NE¼, except patented mineral entries);
Sec. 11, lots 4 to 8, inclusive, SE¼NE¼, SW¼NW¼, except patented mineral entries;
Sec. 12, N½S½, SW¼SW¼, SE¼SE¼, except patented mineral entries;
Sec. 14, lots 3 and 4, E½NW¼, N½SW¼, except patented mineral entries;
Sec. 22, lots 3, 4, 11, except patented mineral entries;
Sec. 23, lots 1, 3, 4 (formerly part of E½NW¼), 5, 7, SE¼NE¼, E½NW¼, NE¼SE¼, except patented mineral entries;
Sec. 24, NW¼SW¼, except patented mineral entries.
T. 20 N., R. 20 W.,
Sec. 27, SW¼SW¼;
Sec. 28, SW¼NW¼, N½S½, SE¼SE¼;
Sec. 29, lot 1, E½NW¼, S½NE¼;
Sec. 30, lot 1;
Sec. 33, NE¼SW¼, N½SE¼;
Sec. 34, W½W½, E½SW¼.

The areas described aggregate approximately 217,624.26 acres in Cochise, Gila, Mohave, Pima, Pinal, Santa Cruz, and Yavapai Counties; the subject transmission lines cross approximately 221.50 miles.

8. Of the lands described in paragraph No. 7, the following are located within the boundaries of a national forest and are subject to the jurisdiction of the United States Forest Service, Department of Agriculture:

Prescott National Forest

T. 11½ N., R. 1 E. (unsurveyed)
All.
T. 12 N., R. 1 E.,
Sec. 5, lots 1 to 4, inclusive, SE¼NE¼;
Sec. 35, lot 3, W½SE¼.
T. 12 N., R. 2 E.,
Sec. 13, SW¼SW¼;
Sec. 14, NW¼SW¼, S½S½.
T. 15 N., R. 2 E. (unsurveyed)
All.
T. 16 N., R. 2 E. (partially surveyed)
Sec. 22, all;
Sec. 23, lot 11, S½SE¼;
Sec. 24, S½S½;
Sec. 26, NW¼NW¼;
Sec. 27, all;
Sec. 33, all;
Sec. 34, all.
T. 12 N., R. 3 E.,
Sec. 20, W½SW¼, SE¼SW¼, S½SE¼;
Sec. 21, SW¼SW¼;
Sec. 26, NW¼SW¼, SW¼SE¼;
Sec. 27, S½NW¼, NE¼SW¼, N½SE¼;
Sec. 28, W½NE¼, SE¼NE¼, N½NW¼;
Sec. 29, NE¼NE¼;
Sec. 35, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 36, lots 1, 2, SW¼NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼.
T. 15 N., R. 3 E.,
Sec. 9, lot 3, SE¼NE¼;
Sec. 15, lots 1, 2, 5, 6, S½SE¼;
Sec. 22, lot 1;
Sec. 23, lots 4, 5, SE¼NW¼, E½SW¼, W½SE¼;
Sec. 25, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 26, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 36, W½NE¼, E½NW¼, N½SE¼, SE¼SE¼.
T. 11 N., R. 4 E. (partially surveyed)
Sec. 3, S½SW¼;
Sec. 4, N½S½, S½SE¼;
Sec. 5, S½N½, N½SE¼;
Sec. 6, lots 1, 2, and 3, SE¼NE¼;
Sec. 10, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 11, NE¼, S½NW¼;
Sec. 12, N½.
T. 12 N., R. 4 E.,
Sec. 31, lots 3, 4, SE¼SW¼, SW¼SE¼.
T. 13 N., R. 4 E.,
Sec. 1, lots 6, 7, and 9, SW¼NW¼, N½SW¼, SE¼SW¼;
Sec. 2, lot 1;
Sec. 12, lot 3, W½NE¼, E¼SE¼.
T. 14 N., R. 4 E.,
Sec. 6, lots 3, 4, 5, 9, 10, HES 330, SE¼NW¼, SW¼SE¼;
Sec. 16, SW¼NW¼, SW¼;
Sec. 21, W½NE¼, SE¼NE¼, NE¼NW¼, E½SE¼;
Sec. 22, W½SW¼, SE¼SW¼;
Sec. 26, lot 13;
Sec. 27, W½NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 35, lots 3, 4, 6, 7, and 9, W½NW¼, SW¼NE¼, and W½SE¼.
T. 12 N., R. 5 E.,
Part.
T. 13 N., R. 5 E. (partially surveyed)
Sec. 7, lot 10;
Sec. 17, lot 7;
Sec. 18, lot 1, SW¼NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 20, lots 1 to 4, inclusive, 6, 7, and 11;
Sec. 28, SW¼NW¼, W½SW¼, and SE¼SW¼;
Sec. 29, N½NE¼, SE¼NE¼;
Sec. 33, lots 1, 2, 6 to 9, inclusive, and 15;
Sec. 34, lot 9.
T. 12 N., R. 1 W.,
All.
T. 13 N., R. 1 W.,
Sec. 30, lots 28, 31;
Sec. 31, lots 11, 12, 16;
Sec. 32, lots 10, 11, 12, 14, SW¼NW¼;
Sec. 33, lot 16, SE¼SW¼, S½SE¼;
Sec. 34, S½SW¼, SE¼;
Sec. 35, lots 4, 6, 7, N½SW¼;

Sec. 36, lots 10, 11, 12, SE¼SE¼.
T. 12 N., R. 2 W.,
All.
T. 13 N., R. 2 W.,
Sec. 13, lots 4, 5, 11 to 14 inclusive;
Sec. 14, lots 1, 2, 8, 9, 16;
Sec. 15, lots 4, 5, 6, 11;
Sec. 22, lots 2, 8;
Sec. 24, lots 3 to 6, inclusive, 10 to 12, inclusive, 14 to 16, inclusive;
Sec. 25, lots 14, 15;
Sec. 26, lot 28.

**Coconino National Forest**

T. 16 N., R. 4 E.,
Sec. 25, N½;
Sec. 26, N½N½;
Sec. 27, N½N½.
T. 12 N., R. 5 E. (surveyed)
Part.
T. 12 N., R. 6 E. (unsurveyed)
All.

**Tonto National Forest**

T. 1 S., R. 12 E.,
Sec. 35, lot 2;
Sec. 36, lots 1, 2, NE¼NE¼.
T. 2 S., R. 12 E.,
Sec. 12, N½SW¼, SE¼SW¼;
Sec. 13, E½W½, W½SE¼;
Sec. 24, W½E½, E½SE¼;
Sec. 25, E½E½;
Sec. 36, E½NE¼.
T. 1 S., R. 13 E.,
Sec. 12, NE¼SE¼, S½SE¼;
Sec. 13, NW¼NE¼, N½NW¼, SW¼NW¼;
Sec. 14, S½NE¼, SW¼, NW¼SE¼;
Sec. 15, SE¼SE¼;
Sec. 21, E½SE¼;
Sec. 22, N½NE¼, SW¼NE¼, S½NW¼, NW¼SW¼;
Sec. 28, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼, NW¼SW¼;
Sec. 29, SE¼NE¼, NE¼SW¼, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 30, SE¼SE¼;
Sec. 31, NE¼NE¼.
T. 2 S., R. 13 E.,
Sec. 31, lot 4.
T. 1 S., R. 14 E.,
Sec. 3, lots 1, 2, S½NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 4, S½SW¼, NE¼SE¼, S½SE¼;
Sec. 5, SE¼SE¼;
Sec. 7, lots 3, 5, 6, S½NE¼, NE¼SW¼, S½NW¼SW¼SW¼, E½SW¼ SW¼SW¼, E½SW¼SW¼, NW¼SE¼;
Sec. 8, N½N½, SW¼NW¼;
Sec. 9, NW¼NW¼.

9. Of the lands described in Paragraph 7, the following are located within the boundaries of the Cabeza Prieta National Game Range and are subject to the jurisdiction of the United States Fish and Wildlife Service, Department of the Interior;

T. 11 S., R. 7 W., (unsurveyed)
All.
T. 12 S., R. 7 W., (unsurveyed)
All.

10. Of the lands described in paragraph No. 7, the following have been transferred out of Federal ownership:

T. 11½ N., R. 1 E., (unsurveyed)
HES 61, HES 336, and ME patents in Township.
T. 12 N., R. 1 E.,
Sec. 4, lots 3 to 6, inclusive, 9 to 11, inclusive, 53, SW¼NW¼, N½SW¼, and SW¼SW¼;
Sec. 5, HES 62 and HES 76 in lots 3 and 4;
Sec. 9, lots 1 to 4, inclusive, and W½SE¼;
Sec. 10, NW¼NW¼;
Sec. 12, S½NE¼, SE¼NW¼, and N½S½;
Sec. 16, lots 1 and 4, 15 and 16, NE¼NE¼, and MS 3686 and MS 3733 in SE¼SE¼;
Sec. 26, lots 1, 3, and 6, SE¼NW¼, and SW¼SE¼;
Sec. 35, lots 1 and 2, NE¼NE¼, and SW¼SE¼.
T. 13 N., R. 1 E.,
Sec. 1, NW¼SW¼;
Sec. 11, E½SE¼;
Sec. 12, NW¼NW¼;
Sec. 14, E½NE¼;
Sec. 22, lots 5, 7, and 8;
Sec. 23, lots 3, 4, and 37B;
Sec. 27, lots 2 to 4, inclusive, S½NW¼, and NW¼SW¼;
Sec. 28, lot 1673, SE¼NE¼, and NE¼SE¼;
Sec. 31, lots 1 to 4, inclusive, 7 to 10, inclusive, 13 to 15, inclusive, 42, and SE¼SW¼;
Sec. 32, lots 2 to 4, inclusive, E½SW¼, and SW¼SE¼;
Sec. 33, lot 1673, and ME patents in NE¼SW¼.
T. 12 N., R. 2 E.,
Sec. 7, lots 5 and 6, S½NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 8, lots 1 and 2, SW¼NW¼, NW¼SW¼, NE¼SW¼, and NW¼SE¼;
Sec. 15, SW¼NE¼, N½SE¼, and SE¼SE¼;
Sec. 16, NW¼NE¼, S½NE¼, and N½NW¼;
Sec. 17, lot 1;
Sec. 24, N½N½ and SE¼NE¼.
T. 15 N., R. 2 E., (unsurveyed)
Lots 1450, 1487, 1532B, and 1787, MS 1577 and 1692, HES 91 and 92, and ME patents in Township.
T. 16 N., R. 2 E., (partially surveyed)
Sec. 22, all;
Sec. 26, ME patents in NW¼NW¼;
Sec. 27, all except lots 3 and 4;
Sec. 33, ME patents;
Sec. 34, ME patents.
T. 12 N., R. 3 E.,
Sec. 19, lot 2, SW¼NW¼, SE¼NW¼, and N½SE¼;
Sec. 20, W½SW¼.
T. 15 N., R. 3 E.,
Sec. 4, lot 4;
Sec. 9, SE¼NE¼;
Sec. 23, lots 4 and 5, and SE¼NW¼.
T. 16 N., R. 3 E.,
Sec. 30, SE¼NE¼;
Sec. 31, lot 1.
T. 11 N., R. 4 E.,
Sec. 4, N½SE¼ and N½NE¼NE¼SW¼;
Sec. 5, S½NW¼;
Sec. 6, SE¼NE¼.
T. 13 N., R. 4 E.,
Sec. 12, lot 3 and E½NE¼SE¼.
T. 14 N., R. 4 E.,
Sec. 6, HES 329 in SW¼SE¼.
T. 16 N., R. 4 E.,
Sec. 25, SW¼NW¼;
Sec. 26, N½NE¼ and NE¼NW¼;
Sec. 27, N½NW¼.
T. 12 N., R. 5 E., (unsurveyed)
Lot 1328 and HES 90 in Township.
T. 12 N., R. 1 W.,
HES 77 and 643, MS 913, 1550, 1948, 1951, 3210, 3211, and 4552B, and ME patents in Township.
T. 13 N., R. 1 W.,
Sec. 32, MS 4263 and ME patents in lot 12 and SW¼NW¼;
Sec. 33, MS 4582 and ME patents in lot 16 and SE¼SW¼.
T. 12 N., R. 2 W.,
Lot 45, MS 300, 1169, 1181, 1646, 1804, 2942, 4205, and 4552B, HES 80, and ME patents in Township.
T. 13 N., R. 2 W.,
Sec. 10, lot 1;
Sec. 11, lots 3, 4, 6, 7, 9 to 11, inclusive, 15, and 16.
T. 20 N., R. 17 W.,
Sec. 4, lots 3, 4, 11, and 12;
Sec. 5, lots 1, 2, 7 to 10, inclusive, SW¼, and N½SE¼;
Sec. 7, lots 6 to 20, inclusive, NE¼, and N½SE¼;
Sec. 18, lots 1 to 10, inclusive.
T. 21 N., R. 17 W.,
Sec. 1, lot 2, SW¼NE¼, and W½SE¼;
Sec. 12, W½NE¼ and NE¼SW¼;
Sec. 13, NE¼NW¼, S½NW¼, and W½SW¼;
Sec. 23, E½E½ and SW¼SE¼;
Sec. 26, NW¼NE¼, NW¼, and W½SW¼;
Sec. 34, lots 2 to 5, inclusive, and NE¼SE¼;
Sec. 35, W½NW¼ and NW¼SW¼.
T. 19 N., R. 18 W.,
Sec. 6, SE¼NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼.
T. 20 N., R. 18 W.,
Sec. 13, SE¼NE¼ and N½SE¼;
Sec. 24, N½NW¼ and SW¼NW¼;
Sec. 26, N½NW¼.
T. 23 N., R. 18 W.,
Sec. 3, lot 6;
Sec. 24, lot 8 except MS 4592 and ME patents in lot 9.
T. 24 N., R. 18 W.,
Sec. 34, ME patents in S½SE¼.
T. 19 N., R. 19 W.,
Sec. 11, SE¼SE¼;
Sec. 12, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, and NW¼SE¼;
Sec. 15, N½S½;
Sec. 17, lots 1 and 2, S½NE¼, and SE¼NW¼.
T. 19 N., R. 20 W.,
Sec. 3, ME patents in W½SE¼;
Sec. 10, lots 2 and 3;
Sec. 11, MS 4137 in SE¼NE¼;
Sec. 12, MS 4137 in N½SW¼;
Sec. 14, lots 3 and 4, and ME patents in N½SW¼;
Sec. 23, lots 1 and 5, SE¼NE¼, E½NW¼ except lot 4, and NE¼SE¼;
Sec. 24, NW¼SW¼.

T. 20 N., R. 20 W.,
Sec. 29, MS 4485 and ME patents in lot 1;
Sec. 30, MS 4485 and ME patents in lot 1;
Sec. 33, MS 3439 in NE¼SW¼ and NW¼SE¼.
T. 1 S., R. 12 E.,
Sec. 35, lot 2;
Sec. 36, N½NE¼ and NE¼NW¼.
T. 2 S., R. 12 E.,
Sec. 12, MS 3096 and ME patents in N½SW¼ and SE¼SW¼;
Sec. 13, MS 2839A in E½W½;
Sec. 24, MS 2839A in W½NE¼.
T. 1 S., R. 13 E.,
Sec. 12, Pat. 823511 and MS 4036A in S½SE¼;
Sec. 13, NW¼NE¼, N½NW¼, and SW¼NW¼;
Sec. 14, S½NE¼ and NW¼SE¼;
Sec. 29, MS 4674 in NE¼SW¼ and S½SW¼;
Sec. 30, SE¼SE¼;
Sec. 31, NE¼NE¼.
T. 1 S., R. 14 E.,
Sec. 3, Pat. 458733 in SE¼NE¼ and MS 4279 in W½SW¼;
Sec. 7, lot 6 and S½NW¼SW¼SW¼.
T. 24 S., R. 14 E.,
Sec. 11, S½SE¼;
Sec. 12, lot 5 and SW¼SW¼;
Sec. 14, NW¼NE¼ and N½NW¼;
Sec. 15, NE¼ and S½NW¼;
Sec. 17, lot 6 and E½SE¼.
T. 23 S., R. 24 E.,
Sec. 13, N½S½;
Sec. 14, N½S½;
Sec. 15, N½SE¼ and NE¼SW¼;
Sec. 25, lot 6, S½SW¼, and SW¼SE¼;
Sec. 26, S½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 27, E½NE¼;
Sec. 36, lots 15 and 16, and N½NE¼.
T. 23 S., R. 25 E.,
Sec. 17, lot 12 and S½NE¼;
Sec. 18, lots 3, 6, and 7, and ME patents in S½NE¼;
Sec. 21, NE¼NE¼;
Sec. 26, W½NW¼, SE¼NW¼, NE¼SW¼, W½SE¼, and SE¼SE¼;
Sec. 27, NE¼NE¼;
Sec. 32, lots 3 to 7, inclusive, 1750, and E½SW¼;
Sec. 33, lot 1, SE¼SW¼, and SE¼SE¼;
Sec. 34, S½SW¼ and SW¼SE¼;
Sec. 35, NE¼NE¼.
T. 24 S., R. 25 E.,
Sec. 1, lots 3 and 4, and S½N½;
Sec. 2, lots 1 and 4, inclusive;
Sec. 3, lot 1;
Sec. 4, lots 3 and 4, and ME patents in N½NW¼;
Sec. 5, lot 1.
T. 23 S., R. 26 E.,
Sec. 31, lot 4.
T. 24 S., R. 26 E.,
Sec. 5, N½SW¼, SE¼SW¼, and S½SE¼;
Sec. 6, SE¼NE¼ and NE¼SE¼.

Inquiries concerning the public lands should be addressed to the Arizona State Director, Bureau of Land Management, U.S. Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: September 1, 1981.

Garrey E. Carruthers,

*Assistant Secretary of the Interior.*

[FR Doc. 81-26406 Filed 9-9-81; 8:45 am]

BILLING CODE 4310-84-M

## 43 CFR Public Land Order 5993

[A-12448]

## Arizona; Revocation of Executive Order Dated August 18, 1904, Fort Whipple Military Reservation

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes an Executive order for the remaining 1,000 acres of public lands which were withdrawn for use by the War Department, and later the Department of the Army, as a rifle range and other small arms training facility. This action will restore 683.57 acres to operation of the public land laws, including the mineral leasing laws, but not the mining laws. The remaining 316.43 acres have been classified for disposal pursuant to an application filed by Yavapai County, Arizona.

**EFFECTIVE DATE:** October 7, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mario L. Lopez, Arizona State Office, 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order of August 18, 1904, which withdrew the following described lands for use of the War Department, as a target range for troops at Whipple Barracks, Arizona, is hereby revoked as to the remaining lands described as follows:

Gila and Salt River Meridian

T. 14 N., R. 2 W.,
Sec. 3, W½SW¼,
Sec. 4, S½,
Sec. 9, lots 1 and 2 (formerly NE¼SE¼), N½, N½SW¼, SW¼SW¼, NW¼SE¼,
Sec. 10, W½NW¼.

The area described contains 1,000 acres in Yavapai County.

2. At 10 a.m. October 7, 1981, the public lands described as W½SW¼ sec. 3, S½ sec. 4, lot 2, N½N½, SW¼NW¼ and W½SW¼ sec. 9, T. 14 N., R. 2 W., shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 7, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The public lands described above will be open to applications and offers under the mineral leasing laws at 10 a.m. on October 7, 1981. The lands will remain closed to mineral location.

4. The lands described as lot 1, S½NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼ sec. 9 and the W½NW¼ sec. 10, T. 14 N., R. 2 W., containing 316.43 acres, have been classified for disposal under the provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.) (1976), pursuant to application filed by Yavapai County, Arizona. These lands will remain closed to other use or disposition under the public land laws.

5. Any disposal of the public lands described in paragraph 1 that are included in Power Project AR-01077 shall be subject to the provisions of Section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075; as amended, 16 U.S.C. 818.

6. Any rights and privileges in the form of easements and rights-of-way previously granted or established by the Department of Army on the subject lands shall continue in full force and effect.

Inquiries concerning the lands shall be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: September 1, 1981.

Garrey E. Carruthers,

*Assistant Secretary of the Interior.*

[FR Doc. 81-26407 Filed 9-9-81; 8:45 am]

BILLING CODE 4310-84-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Parts 200, 201, and 205

## Disaster Relief

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Final Rule Amendment.

**SUMMARY:** This rule amends references to the Associate Director, Disaster Response and Recovery, in the FEMA regulations concerning "Disaster Relief". These references are changed to Associate Director, State and Local Programs and Support.

**DATE:** This rule change is effective September 10, 1981.

**ADDRESS:** Rules Docket Clerk, Office of General Counsel, Room 815, 500 C Street, SW., Washington, D.C. 20472.

**FOR FURTHER INFORMATION CONTACT:** Craig Annear, Office of General Counsel, (202) 287-0380.

**SUPPLEMENTARY INFORMATION:** As a consequence of an internal reorganization within FEMA, it is necessary to amend a number of provisions in the regulations so that reference is made to the correct official. This is a purely procedural and corrective change reflecting actions already accomplished, and thus notice and public comment are unnecessary, and it is desirable for information purposes to have this change made effective immediately on publication.

Authority for issuance of the regulation comes from section 606 of the Disaster Relief Act of 1974. Accordingly, Parts 200, 201 and 205 of subchapter D, Chapter 1, Title 44, Code of Federal Regulations are amended as follows:

## PART 200—FEDERAL DISASTER ASSISTANCE (PUBLIC LAW 91-606)

1. Section 200.2(g) is amended to read:

**§ 200.2 [Amended]**

* * * * *

(g) Associate Director means the Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

**§§ 200.2, 200.3, 200.26, 200.30 and 200.39 [Amended]**

2. References in the following sections to the Office of Disaster Response and Recovery or to ODRR are changed to read: Federal Emergency Management Agency, §§ 200.2(i); 200.3; 200.26(b); 200.30; 200.39.

## PART 201—REIMBURSEMENT OF OTHER FEDERAL AGENCIES UNDER PUBLIC LAW 91-606

3. References to the Office of Disaster Response and Recovery or ODRR are changed to Federal Emergency Management Agency in § 201.2 (a) and (b).

## PART 205—FEDERAL DISASTER ASSISTANCE (PUBLIC LAW 93-288)

4. Section 205.2(a)(3) is revised to read:

**§ 205.2 [Amended]**

(a) * * *

(3) Associate Director means the Associate Director for State and Local Programs and Support, FEMA or his/her designated representative.

* * * * *

**§§ 205.1, 205.76, 205.91, 205.100, 205.402, 205.403, 205.407 and 205.408 [Amended]**

5. References in the following sections to the Associate Director for Disaster Response and Recovery or Associate Director, ODRR, are changed to references to the Associate Director: §§ 205.1; 205.76(d)(4); 205.91(a); 205.100; 205.402(d); 205.403(b)(3); 205.407(d); 205.408(d)(2); 205.408(e).

**§§ 205.91 and 205.100 [Amended]**

6. The parenthetic references "(Associate Director)" in §§ 205.91(a) and 205.100 are removed.

**§ 205.111 [Amended]**

7. Section 205.111(c) is removed and the number reserved.

John E. Dickey,

*Acting Associate Director, State and Local Programs and Assistance.*

September 1, 1981.

[FR Doc. 81-26334 Filed 9-9-81; 8:45 am]

BILLING CODE 6718-01-M

## FEDERAL MARITIME COMMISSION

### 46 CFR Part 502

**[General Order No. 16, Amdt. 40; Docket No. 81-22]**

### Interest in Reparation Proceedings

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final Rule.

**SUMMARY:** Fluctuations in interest rates have required the FMC to modify its past practice regarding awards of interest in reparation proceedings. This rule prescribes the rate of interest to be granted as part of reparation awards in cargo misrating cases. Interest will be based on the rates on 6-month U.S. Treasury bills. The intended effect of the rule is to compute interest awards that more accurately reflect prevailing interest rates during the reparation period involved in each case.

**DATE:** Effective on September 10, 1981.

**FOR FURTHER INFORMATION CONTACT:** Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5725.

**SUPPLEMENTARY INFORMATION:** On March 17, 1981, the Commission issued a notice of proposed rulemaking providing for the grant of interest on awards of reparation in cases involving the misrating of cargo arising under section 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. 817(b)(3)) and section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844). The interest awarded would be based on the rate paid on six-month U.S. Treasury bills averaged over the reparation period.

Eight responses to the proposed rule were submitted, on behalf of numerous conferences of carriers.[1] Comments received are summarized and discussed below.

Some commenting parties argue that the proposed rule in inconsistent with the holdings in *Consolo* v. *FMC*, 383 U.S. 607 (1966) and *Flota Mercante Grancolombiana, S.A.* v. *FMC*, 373 F. 2d 674 (D.C. Cir. 1967), that awards of reparation under section 22 of the Shipping Act, 1916 (46 U.S.C. 821) are discretionary. They contend that because the rule does not allow for exceptions it constitutes an abdication of statutory discretion. The rule is also alleged to be contrary to prior Commission decisions indicating that interest on reparation awards will be

[1] Comments were submitted by:

(a) Pacific Westbound Conference, Pacific-Straits Conference, Pacific Indonesian Conference, and Far East Conference;

(b) Australia-Eastern U.S.A. Shipping Conference, Greece/U.S. Atlantic Agreement, Iberian/U.S. North Atlantic Westbound Freight Conference, Italy, South France, South Spain, Portugal/U.S. Gulf and The Island of Puerto Rico (Med-Gulf) Conference, Marseilles North Atlantic U.S.A. Freight Conference, Mediterranean-North Pacific Coast Freight Conference, North Atlantic Mediterranean Freight Conference, U.S. Atlantic & Gulf/Australia-New Zealand Conference, U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement, The West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference (WINAC);

(c) The Associated Latin American Freight Conferences, consisting of United States Atlantic & Gulf-Haiti Conference, United States Atlantic & Gulf-Jamaica Conference, United States Atlantic & Gulf-Santo Domingo Conference, Southeastern Caribbean Conference, Atlantic & Gulf/West Coast of South America Conference, United States Atlantic & Gulf/Venezuela Conference, West Coast of South America Northbound Conference, East Coast Colombia Conference, and Atlantic & Gulf/Panama Canal Zone, Colon and Panama City Conference;

(d) The North European Conferences, consisting of North Atlantic United Kingdom Freight Conference, North Atlantic French Atlantic Freight Conference, North Atlantic Continental Freight Conference, North Atlantic Baltic Freight Conference, Scandinavia Baltic/U.S. North Atlantic Westbound Freight Conference, Continental North Atlantic Westbound Freight Conference, North Atlantic Westbound Freight Association, United Kingdom & U.S.A. Gulf Westbound Rate Agreement, Continental-U.S. Gulf Freight Association, Gulf-United Kingdom Conference, and Gulf-European Freight Association;

(e) Agreement No. 10107, Agreement No. 10108, Japan/Korea-Atlantic & Gulf Freight Conference, Japan-Puerto Rico & Virgin Islands Freight Conference, New York Freight Bureau, Trans-Pacific Freight Conference (Hong Kong), Trans-Pacific Freight Conference of Japan/Korea, Thailand/Pacific Freight Conference, and Thailand/U.S. Atlantic & Gulf Conference;

(f) Inter-American Freight Conference;

(g) Atlantic and Gulf-Indonesia Conference;

(h) Atlantic and Gulf-Singapore, Malaya and Thailand Conference.

denied if the misrating is the result of the negligence or misrepresentations of the shipper. Accordingly, the Commission is urged to modify the rule to allow a case-by-case determination of interest awards.

While the proposed rule does alter the existing Commission practice of making a strict case-by-case determination of all elements of interest awards in reparation proceedings, it is neither improper nor inconsistent with case law. Generally, the choice made between proceeding by general rule or on an *ad hoc* basis is one that rests with the discretion of the administrative agency. *SEC* v. *Chenery Corp.*, 332 U.S. 194, 203 (1947); British Caledonia Airways, Ltd. v. *CAB*, 584 F. 2d 982, 993 (D.C. Cir. 1978). While *Consolo* and *Flota, supra*, did construe section 22 of the Act as allowing the Commission some discretion in reparation proceedings to consider the equities of each case before it, those cases did not address the issue of whether it would be permissible to eliminate such discretion by rule. In any event, it is not the intent of the rule to remove all discretion from the Commission. The rule does contemplate exceptions. These exceptions, however, would be narrow and generally limited to situations involving shipper fraud or misconduct. *See Girton Manufacturing, Co.* v. *Prudential Lines, Inc.*, 20 S.R.R. 186, 187 (1980). Because the rule intends exceptions under certain circumstances, it has been modified to make this clear.

The comments urge that the Commission consider other factors in determining whether and in what amount interest will be awarded in proceedings involving the misrating of cargo. It is argued that in cases where delay in presenting a claim is attributable to the shipper, the period upon which interest is based should be proportionately reduced. The commenting parties also suggest that some time limit on interest awards be imposed to protect carriers from interest charges caused by delays beyond their control. Because the award of interest is intended to compensate the shipper for the loss of use of funds, the Commission is further urged to take into consideration the *actual* financial losses of the claimant. As an example, it is argued that freight auditors, who have no actual losses, should not be allowed to benefit from the rule.

These comments in effect urge the Commission to inject fault considerations into the proposed rule. Fault of the shipper is irrelevant to the award of reparation in cases involving the misrating of cargo and the only consideration is proof of what was actually shipped. *Kraft Foods* v. *Moore McCormack Lines*, 19 F.M.C. 407, 410 (1976). Because interest in reparation proceedings is intended to make the shipper "whole," *U.S. Borax & Chem. Corp.* v. *Pacific Coast European Conference*, 11 F.M.C. 451, 470 (1968), the same rule, holding that fault is irrelevant, will generally apply. Moreover, if fault were to become a factor in interest awards, proceedings involving routine misrating claims could evolve into legally and factually more complex negligence actions, frustrating efforts to dispose of these claims efficiently.

Other "equitable" considerations suggested in the comments which tend to undermine the overall purpose of the general rule are similarly rejected. Because the party who actually paid the freight charge has been held to have suffered the "injury" within the meaning of section 22, and not the party who "ultimately bore the cost of the overcharge," *Sanrio, Inc.* v. *Maersk Line*, 19 S.R.R. 907 (1979), the carrier may not avoid the payment of interest on the basis of third party relationships for which there is no privity. Similarly, assignees, *i.e.*, "freight auditors," obtain for a consideration legal title to the claim of an "injured" party for reparations, and such assignments do not extinguish any part of the recognized section 22 damages, including interest. *See Ocean Freight Consultants, Inc.* v. *Bank Line, Ltd.*, 9 F.M.C. 211 (1966).

Commenting parties further point out that carriers cannot bring a claim for undercharges against the shipper before the Commission but rather must proceed in court, thereby limiting them to that forum's statutory rate of interest. Because these parties believe this interest rate is likely to be lower than the Treasury bill rate, and is therefore seen as giving an unfair advantage to shippers, the Commission is requested to seek an amendment to the Shipping Act to allow carrier claims against shippers. The commenting parties believe that until this is done the Commission should limit interest awards to the statutory rate of the forum in which such claims would otherwise have to be brought.

This suggestion not only ignores the realities of the situation but also overlooks the basis of the rule. First, the Commission's statutory inability to entertain undercharge claims by carriers against shippers cannot act as a basis for denying relief to shippers for overcharges.[2] The Commission cannot amend the Shipping Act by rulemaking nor refuse to fulfill its statutory obligations pending any such amendment.

Second, the Commission has determined that a "statutory" rate of interest or any fixed level of interest does not reflect contemporary conditions. The rule as proposed establishes a method of computing interest that accurately and fairly reflects the loss incurred by shippers. Because the Shipping Act does not prescribe the manner in which compensation for injuries under section 22 is to be computed, the Commission is necessarily entitled to exercise discretion in determining which rate of interest is appropriate in reparation awards.

Two perspectives can be taken in evaluating the choice of an interest rate. One perspective is that the shipper has effectively "loaned" money to the carrier during the period of the overpayment and that the carrier should pay a rate of interest as if it were a borrower. This would suggest a rate such as the prime which is typically higher than the rates on commercial paper in investment portfolios. The other perspective, is that, were it not for the overpayment, the shipper would have had the additional funds to use or to invest, and thus the shipper should be compensated according to investment rates in the money and capital markets. These rates are lower than those charged by lenders and should put no undue burden on the carrier because the overpayment is money that the carrier could have invested anyway. Thus, the carrier is paying interest at a rate which is approximately that which the shipper could have earned if the shipper had been able to invest the amount of the overpayment. In order to borrow that same amount of money, the carrier would have had to pay a much higher rate of interest.[3]

Once having concluded that it is more appropriate to focus on an investment rather than a loan rate, a further question arises as to whether the rate selected should reflect short term or long term investment opportunities. The rule suggests six-month Treasury bills because the Commission is of the opinion that the combination of

[2] However, carriers are entitled to a set-off for undercharges against a claim for overcharges when both arise under a single bill of lading. *Colgate Palmolive Co. v. The Grace Line*, 17 F.M.C. 279 (1974).

[3] It is interesting to note in this context that the Internal Revenue Service, by statute, focuses on the *higher* rate at which money could be *borrowed* when it establishes a rate for the overpayment or underpayment of taxes (Section 5521(b) of the Internal Revenue Code, 26 U.S.C. 6621(b)).

uncertainty and generally short duration of overpayment circumstances makes it unlikely that these funds could be used for longer terms investments.

One commenting party suggests that the Treasury bill interest level is too high because the small amounts of money generally involved in reparation cases are not eligible for investment at the Treasury bill rate. The Commission cannot agree with this suggestion. While most reparation amounts, by themselves, would probably not be large enough to invest in Treasury bills, there are a myriad of investment opportunities at rates approximating the Treasury bill rate which are available to the smaller investor.[4] Thus, the Commission continues to believe that the use of an average Treasury bill rate as opposed to a fixed "statutory" rate or "passbook" rate is a valid exercise of agency discretion. *Global Van Lines v. ICC*, 627 F.2d 546, 553 (D.C. Cir. 1980).

Several specific amendments to the proposed rule have been advanced. One commenting party requests that the term "misrating" be redefined to exclude shipper misrepresentation. As stated above, the rule will be modified to exclude cases where shipper deception or misconduct is shown. No further redefinition is deemed necessary.

It also has been suggested that the rule specify whether interest will be simple, compounded or prorated. The Commission agrees that clarification of this point is appropriate and the rule has accordingly been revised to specify that simple interest is contemplated. The final rule also specifies that interest will accure from the date of payment of freight charges to the date reparations are paid.

Finally, it is proposed that interest not be made mandatory where the claim is settled between the parties. This suggestion is also found to have merit. Except in situations where facts critical to the resolution of a dispute are not reasonably ascertainable, settlements of section 22 reparations claims based on misrating of cargo must reflect the applicable freight rate to comply with the requirements of section 18(b). *Organic Chemicals v. Atlanttrafik Express Service*, 18 S.R.R. 1536a (1979). However, because interest is not part of the freight rate, it is appropriate that its treatment in settlement agreements be left up to the parties. The Commission has modified the rule to except settled claims from its scope.

This proposed rule would appear to be exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Section 601(2) of the Act excepts from its coverage any "rule of particular applicability relating to rates * * * or practices relating to such rates * * *." This rule would seem to be one "relating to rates." However, since an initial regulatory flexibility analysis was issued in this proceeding, providing a final flexibility analysis will not delay or protract this rulemaking proceeding, although this analysis may not be required. Accordingly, and without prejudice to any future determination as to the applicability of the Act to this or any related rule, the following final regulatory flexibility analysis is being provided.

The need for, and the objectives of, the rule are stated in the "Summary" above. No comments in response to the initial regulatory flexibility analysis published in this rulemaking proceeding have been received by the Commission.

This rule is intended to result in a favorable economic impact on small entities. Accordingly, consideration of alternatives which minimize the economic impact of the rule would appear to be unnecessary. However, the Commission has considered alternatives to the proposed rule and has determined that they are impactical. A discussion of one of these alternatives was provided in the Notice of Proposed Rulemaking issued in this proceeding on March 17, 1981 (46 FR 17064).

## PART 502—RULES OF PRACTICE AND PROCEDURE

Therefore, pursuant to 5 U.S.C. 553 and sections 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 821 and 841(a)), Part 502 of the Code of Federal Regulations is amended by the addition of a new § 502.253 as follows:

### § 502.253 Interest in reparation proceedings.

Except as to applications for refund or waiver of freight charges under § 502.92 and claims which are settled by agreement of the parties, and absent shipper fraud or misconduct, interest will be granted on awards of reparation in cases involving the misrating of cargo and arising under section 18(b)(3) of the Shipping Act, 1916 and section 2 of the Intercoastal Shipping Act, 1933. Interest (simple) will accrue from the date of payment of freight charges to the date reparations are paid. The rate of interest will be calculated by averaging the monthly rates on six-month U.S. Treasury bills commencing with the rate for the month that freight charges were paid and concluding with the latest available monthly Treasury bill rate at the time reparations are awarded.

By the Commission.

Francis C. Hurney,

*Secretary.*

[FR Doc. 81-26369 Filed 9-9-81; 8:45 am]

BILLING CODE 6730-01-M

[4] See, *e.g.*, Statement of the Honorable John R. Evans, Commissioner of the Securities and Exchange Commission, before the House of Representatives Subcommittee on Domestic Monetary Policy of the House Committee on Banking, Finance and Urban Affairs, concerning the Regulation of Money Market Funds, April 8, 1981.

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[BC Docket No. 81-153; RM-3720]**

### Radio Broadcast Services; FM Broadcast Station in Fort Bragg and Mendocino, Calif.; Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns FM Channel 249A to Fort Bragg, California, as that community's second FM assignment, and reassigns Channel 224A from Fort Bragg to Mendocino, California, to reflect its actual use there, in response to a petition filed by Fort Bragg Broadcasting Co.

**DATE:** Effective November 2, 1981.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Nancy V Joyner, Broadcast Bureau, (202) 632-7792.

**SUPPLEMENTARY INFORMATION:**.

Report and order. (Proceeding Terminated)

Adopted: August 25, 1981.

Released: August 31, 1981.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Fort Bragg and Mendocino, California); BC Docket No. 81-153; RM-3720.

By the Acting Chief, Policy and Rules Division:

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 46 FR 17810, published March 20, 1981, proposing the assignment of FM Channel 249A to Fort Bragg, California, as that community's second FM assignment, and the reassignment of Channel 224A from Fort Bragg to Mendocino, California, to reflect its actual use there,[1] in response

[1] Pursuant to § 73.203(b) of the Commission's rules.

to a petition filed by Fort Bragg Broadcasting Company ("petitioner"). Supporting comments were filed by petitioner in which it stated its intent to file for the channel if assigned. Comments were filed by Stephen M. Ryan ("Ryan"), licensee of co-owned Stations KPMO (AM) and KMFB-FM (Channel 224A), in Mendocino, to which the petitioner responded.

2. Fort Bragg (population 5,011),[2] in Mendocino County (population 66,738), is located approximately 216 kilometers (135 miles) northwest of San Francisco. It is served locally by full-time AM Station KDAC. Channel 237A is unoccupied with one application pending.[3]

3. In support of its proposal, petitioner submitted information with respect to Fort Bragg which is persuasive as to its needs for a second FM channel assignment.

4. In our *Notice*, we pointed out that preclusion would occur as a result of this assignment on Channel 246A within 65 miles, Channel 247 within 65 miles, Channel 248 within 105 miles, Channel 249A within 65 miles, and Channel 250 within 65 miles. Petitioner alleged that no communities would be adversely affected as a result of the proposed assignment since alternate channels are available.

5. In comments, Ryan criticized the petitioner's preclusion study but did not demonstrate that any community would be adversely affected. He also questioned the showing of need for the additional channel. Furthermore, he opposed reassignment of Channel 224A to Mendocino and submitted data to reveal that Station KMFB-FM provides city grade coverage to Fort Bragg.

6. With respect to the assertion of service to Fort Bragg by Station KMFB-FM in Mendocino, which is located approximately 16 kilometers (10 miles) south thereof, that fact is not a valid basis for us to withhold action which merely corrects the Table of Assignments to reflect the community of license. We would expect that the community of assignment is close enough to receive service from a station licensed to a community within 10 miles. Since KMFB-FM operates on a channel assigned to Fort Bragg but is licensed to Mendocino, its primary obligation is to the latter community and therefore could not be expected to provide the equivalent of such service to Fort Bragg. *See, Clinton Louisiana*, 45 RR 2d 1587-88 (Broadcast Bureau, 1979).

7. It appears that the thrust of Ryan's objection stems from the possible economic impact that a potentially competitive assignment could have on his station. If so, that is a matter which should be raised at the application stage where it would be feasible to investigate and consider the merits of various allegations, rather than in a rule making proceeding. *See, Beaverton, Michigan*, 44 RR 2d 55 (Broadcast Bureau, 1978).

8. As to Ryan's criticism of petitioner's preclusion study, since there have been no counterproposals from any precluded communities, the potential impact has not been shown to be sufficient here to deny a second channel assignment to Fort Bragg.

9. We believe that reassigning Channel 224A from Fort Bragg, the present community of assignment, to Mendocino, to reflect its use at that community, and assigning Channel 249A to Fort Bragg would be consistent with our assignment criteria. In addition, Fort Bragg's population warrants the assignment of two FM channels. Since it has been stated that no communities would be adversely affected by preclusion as a result of the proposed assignment, it would be in the public interest to make these assignments.

10. Accordingly, it is ordered, That effective November 2, 1981, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with respect to the communities listed below, as follows:

| City | Channel Nos. |
|---|---|
| Fort Bragg, California | 237A, 249A |
| Mendocino, California | 224A |

11. Authority for adoption of the above amendments is contained in 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

12. It is further ordered, That this proceeding is terminated.

13. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Martin Blumenthal,

*Acting Chief, Policy and Rules Division, Broadcast Bureau.*

[FR Doc. 81-26344 Filed 9-9-81; 8:45 am]

BILLING CODE 6712-01-M

[2] Population figures are extracted from the 1980 U.S. Census.

[3] Petitioner was previously one of two applicants for unoccupied Channel 237A, but subsequently withdrew its application.

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1244

[Ex Parte No. 385]

### Waybill Analysis of Transportation of Property; Railroads; Decision

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of clarification of final rule.

**SUMMARY:** By final rule published in the Federal Register on May 15, 1981 (46 FR 26781), the Commission modified its requirement that certain railroads submit waybills used for continuous study of rail carload terminations, previously known as the "One-Percent Waybill Sample." This notice modifies the final rule to clarify two reporting requirements.

**EFFECTIVE DATE:** July 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** Sidney Fine, Telephone: 202-275-0783.

**SUPPLEMENTARY INFORMATION:** In its decision of April 29, 1981, the Commission established two methods whereby carriers can submit waybill data, the computerized method and the manual method. In the past, all railroads have used the manual system, submitting hard-copy waybills to the ICC on a yearly basis. Under the revised system, railroads using the manual system will submit waybills on a monthly or quarterly basis. The Commission intends that these railroads furnish summary information in each reporting period on Transmitall Form OPAD-2, which accompanies the submitted waybills.

## PART 1244—WAYBILL ANALYSIS OF TRANSPORTATION OF PROPERTY—RAILROADS

In § 1244.3(d)(3), the requirement of the transmittal form inadvertently included the word "annually" This word should be removed. 49 CFR 1244.3(d)(3) is corrected to read as follows:

§ 1244.3 Sampling of waybills.

* * * * *

(d) * * *

(3) All subject railroads using the manual system of reporting shall furnish the Commission, in accordance with instructions on the Transmittal Form OPAD-2, the total counts of line-haul revenue waybills terminated in each reporting period for the following three categories:

(i) Waybills, with less than six carloads per waybill,

(ii) Waybills with 6 to 25 carloads per waybill, and

(iii) Waybills with 26 or more carloads per waybill.

* * * * *

One other clarification is needed. There is an apparent conflict between § 1244.3(a)(1) requiring submission of "authenticated copies of the front only of a sample of audited waybills* * *" and § 1244.3(d)(1) requiring "all pertinent waybill data." The Commission requires certain data items to be reported whether these items are on the front of a waybill or not. We are revising 49 CFR 1244.3(a)(1) to read as follows:

**§ 1244.3 Sampling of waybills.**

(a) * * *

(1) Authenticated copies of a sample of audited revenue waybills—the manual system (§ 1244.3(b)).

* * * * *

This action will not affect the quality of the human environment, the conservation of energy resources, or small businesses other than railroads.

This clarification is issued under authority of 49 U.S.C. 11144, 49 U.S.C. 10709.

Decided: September 1, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham, and Gilliam.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 81-26263 Filed 9-9-81; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 32

## Addition of National Wildlife Refuges to the List of Open Areas: Migratory Bird Hunting, Upland Game Hunting, and Big Game Hunting

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule adds Rachel Carson National Wildlife Refuge, Maine, to the list of open areas of migratory bird hunting; Holla Bend National Wildlife Refuge, Arkansas, to the areas open for upland game hunting; and Rachel Carson National Wildlife Refuge, Maine, to the list of refuge areas open for big game hunting. It has been determined that this action would be in accordance with the provisions of all applicable laws, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such uses are compatible with the major purposes for which each refuge was established. The hunting of migratory birds, upland game, and big game, subject to annual special regulations, will provide additional public recreational opportunities.

**EFFECTIVE DATE:** September 10, 1981.

**FOR FURTHER INFORMATION CONTACT:** Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4717

**SUPPLEMENTARY INFORMATION:** The author of this document is Ronald L. Fowler, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4305. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by rulemaking.

On December 9, 1980, there was published (45 FR 81082) a notice of proposed rulemaking adding Rachel Carson National Wildlife Refuge, Maine, to the list of open areas for migratory bird hunting; Holla Bend National Wildlife Refuge, Arkansas, to the areas open for upland game hunting; and Rachel Carson National Wildlife Refuge, Maine, to the areas open for big game hunting. The public was provided a 30-day comment period and was advised that pursuant to the requirements of Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), an environmental assessment had been prepared on each of these proposals. These assessments are available for public inspection and copying at room 2341, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, or by mail addressing the Director at the address given above. On the basis of these assessments it has been determined that this rulemaking does not constitute a major Federal action significantly affecting the human environment.

One letter was received concerning the proposed opening of Holla Bend to upland game hunting; the letter was an endorsement of the proposal by a State game and fish commission. One letter was received concerning the proposed opening of the Rachel Carson National Wildlife Refuge to migratory game bird hunting and big game hunting; the letter represented the concerns of a property owners association. Those concerns were as follows:

1. Hunting on the refuge will drive away birds and other wildlife during the hunting season, eliminating Drakes Island's effectiveness as a state wildlife sanctuary.

Response: Hunting will not be permitted on those areas of the refuge which are part of existing state wildlife sanctuaries. Those areas on which the Service proposes to allow hunting have, in fact, been annually hunted since man first occupied the Maine Coast. The actual effect of the proposed hunting program will be to control and restrict hunting on refuge lands. In planning the refuge hunting program, approximately 60 percent of the area was designated as "closed" to hunting, in effect creating a number of new "sanctuary areas" where they had not existed heretofore.

2. Hunting will drive off many bird species which utilize the marshes during their migratory journeys and destroy the opportunity for wildlife observation.

Response: Refuge personnel conduct periodic surveys of the birds which use the marshes. Based on results of these surveys over the past several years, hunting has not affected the populations of migratory birds which use the refuge marshes.

Hunting seasons for waterfowl in Maine usually begin on October 1. The majority of non-game birds which use the refuge marshes during migration have already departed the Maine Coast for their southern wintering areas by this time.

3. Hunters may walk in the slender-blue flag stand and destroy this rare wildflower.

Response: The slender-blue flag stand is within the existing state game sanctuary on Drakes Island. No hunting is or will be permitted in this area. Consequently, these rare plants are in no danger of being destroyed by hunters.

4. The presence of hunters is of great concern to families on Drakes Island.

Response: No hunting is proposed or currently permitted on Drakes Island, which is part of a state game sanctuary. Consequently, there will be no safety risk involved. Weaponry on the proposed refuge hunting areas will be limited to shotguns. The refuge hunting areas have been designed to keep hunters at a safe distance from residential areas. Where necessary, safety zone or closed area signs will be posted to improve the safety margin.

5. It is short-sighted to open one of the few remaining wildlife marsh areas in existence in southern Maine to hunting. Numerous alternative hunting areas abound in the state.

Response: Coastal marshes are a limited resource in Maine. The majority of the coastal marshes are in state or federal ownership. The opportunity to pursue hunting on this type of area is also limited. Hunting has and will have

minimal impacts on the refuge marshes during the relatively short period of time it occurs each year.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established.

In addition, the Refuge Recreation Act requires that: (1) Any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation. The proposed use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Impact Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Because of the time limitation involved to coordinate the State and Federal hunting regulations and the rapid approach of the hunting seasons, the Department of the Interior has concluded that "good cause" exists within the meaning of 5 U.S.C. 553(d)(3), of the Administrative Procedure Act to expedite the implementation of this rulemaking, therefore the effective date of this final rule is September 10, 1981.

The Department of the Interior has determined that this document is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193) and that the rulemaking would not have a "significant economic effect on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act and 43 CFR Part 14.

## PART 32—HUNTING

Accordingly, after consideration of all interests and concerns, §§ 32.11, 32.21, and 32.31 of 50 CFR Part 32 are amended by the addition of Rachel Carson National Wildlife Refuge and Holla Bend National Wildlife Refuge as follows:

**§ 32.11 List of open areas; migratory game birds.**

* * * * *

Maine

Rachel Carson National Wildlife Refuge

* * * * *

**§ 32.21 List of open areas; upland game.**

* * * * *

Arkansas

* * * * *

Holla Bend National Wildlife Refuge

* * * * *

**§ 32.31 List of open areas; big game.**

* * * * *

Maine

* * * * *

Rachel Carson National Wildlife Refuge

* * * * *

(16 U.S.C. 460k, 668dd)

Dated: August 13, 1981.

G. Ray Arnett,

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 81-26371 Filed 9-9-81; 8:45 am]

BILLING CODE 4310-55-M

# Proposed Rules

Federal Register
Vol. 46, No. 175
Thursday, September 10, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 70

### Material Control and Accounting Requirements for Facilities Possessing Formula Quantities of SSNM

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Advance Notice of Proposed Rulemaking.

**SUMMARY:** The Nuclear Regulatory Commission is considering amendments to refocus its Material Control and Accounting (MC&A) regulations that apply to facilities possessing formula quantities of strategic special nuclear material (SSNM). These amendments are being considered for both existing and new fuel processing and fabrication plants. They are not currently being considered for application to any future irradiated fuel reprocessing plants. These amendments also would not apply to waste disposal operations, nuclear reactors, or to users of nuclear material as sealed sources.

Five basic rule options are presented. These include two that emphasize existing inventory control requirements, and three that require material controls with a more timely frequency for detection and resolution of possible material losses. The latter three options also reduce a number of the existing requirements which the staff believes may not be cost-effective. This advance notice informs the public and interested parties concerning the status of this proposed rulemaking effort and invites public comment on issues related to the approaches being considered.

**DATES:** Comments must be received at the NRC docket room before November 9, 1981.

**ADDRESSES:** Comments on the advance notice should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street, NW, Washington, D.C. between 8:15 a.m. and 5:00 p.m. Copies of comments received, summary value-impact analysis, and the more detailed preliminary value-impact analysis, may be examined at the Commission's Public Document Room at 1717 H Street NW, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. J. Dube, Section Leader, Technical Issues Section, Regulatory Improvements Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301)427-4181.

**SUPPLEMENTARY INFORMATION:**

#### Background and Rulemaking Goals

In response to the Energy Reorganization Act of 1974, Pub. L. 93-438, and subsequent legislation, as well as a number of concerns regarding existing Material Control and Accounting (MC&A) systems over the past several years, the NRC has initiated a rulemaking effort to improve its MC&A regulations. This advance notice solicits public comment concerning the options being considered, prior to promulgation of a proposed rule.

The substantive goals of this proposed rulemaking are to achieve the following:

1. Timely detection of the possible loss of strategic quantities of weapons grade nuclear material;

2. Rapid determination of whether an actual loss of strategic quantities occurred;

3. If an actual loss occurred, facilitating the recovery of the lost material by providing evidence regarding the sources of the loss; and

4. Long-term assurance that no significant loss has occurred.

In developing approaches for achieving these substantive goals, the staff has been guided by the following three administrative goals:

1. Elimination of any superfluous, ineffective or excessively costly requirements;

2. Providing licensees with maximum flexibility in devising the least expensive methods for satisfying the substantive goals;

3. Satisfying congressional direction to pursue MC&A upgrades for special nuclear material (cf., Energy Reorganization Act of 1974, Authorization Act for fiscal year 1980, and the Appropriation Act for fiscal year 1981).

#### Basic Rulemaking Options

The following five basic options are being considered by the staff:

*Option 1:* This option is the retention of existing requirements. These existing requirements focus on detailed after-the-fact accounting. Specifically, this option relies primarily on facility-wide inventory accounting and detailed comparisons of material on hand with book values every 60 days. Requirements are not graded by material type and form.

*Option 2:* This option involves minor modifications to existing requirements. This option would be the same as Option 1 except that it would increase the frequency of physical inventories to every 30 days and require material balance alarms and action criteria on a Material Balance Area (MBA) rather than a facility basis. These changes would improve the timeliness and localization of inventory accounting.

*Option 3:* This option would be a major reform of present MC&A requirements. It would focus on the use of much more timely (1 to 3 days) material control information and measures while decreasing reliance on detailed after-the-fact inventory accounting. The controls would be graded by material type and form. This option would provide explicitly for protection against multiple insiders.

*Option 4:* This option is the same as Option 3, except that it would not provide explicitly for protection against multiple insiders. Protection against multiple insiders would be provided indirectly through checks and balances inherent in Option 3 and through the physical protection requirements of 10 CFR Part 73.

*Option 5:* This option is the same as Option 3, except that it would limit the application of MC&A reforms to new facilities and major modifications to existing facilities. Backfitting of existing plants which continue to operate in essentially the same manner would not be mandatory. However, existing licensees would have the option of voluntarily complying with the reform

amendments in lieu of existing requirements.

The detailed requirements of Option 1 are essentially described in §§ 70.51, 70.53, 70.57, and 70.58 of Title 10, Chapter 1, Code of Federal Regulations, supplemented by some guidance documents and license conditions. Since Option 2 is a variation of Option 1, a better understanding of it can be obtained from the same source. However, since the basic approach in Options 3, 4, and 5 of increasing the use of more timely material control information and measures is a significant departure from current regulations, a preliminary working draft of rules representative of Options 3, 4, and 5 has been published as part of this advance notice (hereinafter called the MC&A Reform Amendments). To further facilitate consideration and comments, staff has developed both the following summary of Options 3–5 and an overview comparison of all five options. This comparison is provided in Table 1.

## Summary of the Draft MC&A Reform Amendments (Options 3–5)

The draft MC&A Reform Amendments are structured so that they contain a complete set of Material Control and Accounting requirements, except for the measurement control program requirements set forth in 10 CFR 70.57, which would still apply. The scope of the draft amendments is included in § 70.81 for Options 3 and 4, which for Option 5 would be reworded to be applicable only to new facilities and major modifications of existing facilities. The design basis threat, also included in § 70.81, would be the same for Options 3 and 5, but for Option 4 would exclude MC&A requirements to protect against multiple insiders. The structure of the draft amendments highlights three major performance objectives: detection, response, and system overchecks. These are addressed in proposed §§ 70.83, 70.85, and 70.87, respectively. The detection and response sections contain the refocused MC&A requirements. The system overchecks section is generally similar to existing accounting requirements, although some of the less cost-effective requirements have been modified or dropped altogether. The other major section of the proposed amendments (10 CFR 70.89) deals with protection against MC&A system compromise by multiple insiders, and does not apply to Option 4. The following paragraphs briefly describe the most important elements of each of these four major sections of the rule.

### *Detection*

The general aims of the new detection section are: (1) to discover material losses so that response actions may be taken before losses accumulate to strategic quantities; (2) to perform this discovery function in a way that permits (a) localization of losses in time and space, (b) traceability of a loss to a small number of people potentially involved and (c) securing evidence of the cause of the loss; and (3) in the event that the discovery is not made before 5 formula kilograms (FKG) have been lost, to discover the loss in a timely enough fashion to permit loss assessment and search and recovery operations.

### *Response*

The primary aim of response is to provide conclusive evidence regarding the validity of a detection alarm and its cause. The response section includes timely and thorough resolution of detection alarms. This resolution should:

(1) Determine whether an actual loss occurred;

(2) If an actual loss did not occur, determine the cause of alarm, provide supporting evidence, and determine actions needed to correct it and to prevent recurrence;

(3) If an actual loss did occur, determine (a) its extent (how much material); (b) the material form; (c) its localization in time and space (i.e., when did it occur and from what unit or process); (d) how it occurred; and (e) the identities of the personnel who may have had access to the lost material; and

(4) Provide structured information arising from (3) to assist in any post-loss search and recovery operation.

### *System Overchecks*

One of the major changes made by the draft amendments to the existing requirements involves physical inventories. While physical inventories are an important part of the system overchecks section of the draft amendments, the primary role of physical inventories has been refocused from material loss detection to a validation of MC&A system effectiveness. Given this refocusing of the role of inventories, provisions are included to permit inventories to be taken only once a year. This extension of the inventory period would only be permitted upon a demonstration that the new detection systems will function properly. Other modifications to existing requirements are shown in Table 1.

### *Protection Against Multiple Insiders*

This section is applicable to Options 3 and 5 only. It requires the detection and response system to be resistant to compromise by insider conspiracy, falsification, and deceit, and improves upon the current requirements concerning separation of performance of MC&A functions. It also requires redundancy of MC&A data, as needed to assure adequate protection against multiple insiders.

## Comparison of the Requirements of the Five Options

As indicated above, Table 1 provides a comparison of the requirements of all five options. This table provides a listing of the substantive differences between the two groupings of options, namely the two options which emphasize existing regulations and the three that represent substantial reformation of those regulations. Within each group the variations are shown through footnotes.

## Discussion Topics

NRC is seeking public comment on the options presented in this Federal Register notice. In particular, comments should be focused on the following topics:

1. Which of the options best meets the stated MC&A goals? Are there other basic options which would provide more cost-effective ways of meeting the stated MC&A goals? Please provide specific information regarding any such option.

2. Options 3 through 5 change the emphasis for material loss detection from physical inventories to process monitoring. The primary role of the reduced inventories is changed to be an overcheck on MC&A system effectiveness. We request specific information regarding whether this is likely to result in a more cost-effective utilization of MC&A resources.

3. Is there information available from operating facilities that should be applied to this rulemaking effort? Please provide specific information that indicates that any of the specific existing or draft requirements should be changed. Please recommend changes which would be consistent with achieving the goals of this rulemaking effort.

4. The Commission has determined that the safeguards system should be designed to prevent the theft of SSNM by multiple insiders. Is it adequate to rely on the physical protection system and checks and balances inherent in the material control and accounting system to provide this protection (Options 1, 2, and 4) or should the MC&A system also be designed to assure explicitly that its detection and response capabilities cannot be made ineffective by multiple insiders (Options 3 and 5)?

**Table 1.**—*Comparison of Requirements of Five Options (See Footnotes for Differences Between Options 1 and 2 and Between Options 3,-4, and 5)*

| Objectives | Existing regulations and variation (options 1 and 2) | Reform amendments (options 3, 4, and 5) |
|---|---|---|
| | **Early Loss Detection** | |
| Material Loss Alarms | None[1] | 1 day for attractive material; 3 days for less attractive material (§ 70.83(a)(2)). |
| Loss Localization | Within MBA's (normally 1–3 per facility) (§ 70.58(d)(2)) | Within control units (normally 10–20 per facility) (§ 70.85(a)(3)(iv)). |
| Sensitivity: Abrupt Loss | None[2] | 99 percent probability of detecting 5 FKG loss within a control unit (§ 70.83(a)(3); 90 percent probability of detecting 5 FKG loss plantwide (§ 70.83(c)(1)). |
| Recurring Losses | None | 90 percent probability of detecting 5 FKG trickle loss over a one year period (§ 70.83(d)). |

| Objectives | Existing regulations | Reform amendments |
|---|---|---|
| | **Response Requirements** | |
| Prompt Assessment of Detection Alarms | None | Prompt check for common errors plus detailed assessment, if needed, within 3 days (§ 70.85(a)(3)). |
| Identification of Persons Potentially Involved | None | Limit to 12 persons (§ 70.85(a)(3)(v)). |
| Prompt Assessment of Hoaxes | None | Pre-established method for resolution (§ 70.85(b)). |
| Reporting of Alarms to NRC | If ID exceeds LEID and 300 gm of HEU, report probable reasons and actions taken or planned (§ 70.53(b)(1))[3] | Report alarms indicating 5 FKG loss and any positive loss indications within 1 hour; report any other unresolved alarms within 3 days (§ 70.85(d)). |
| Shutdown | None[4] | Control unit shutdown for 5 FKG loss (§ 70.85(e)). No plantwide shutdown for excessive IDs. |
| Management Control | Custodians responsible for material (§ 70.58(d)(3)) | Custodians and operators responsible for material (§ 70.87(a)(3)(ii)). |
| Selection and Training | Generalized training program for all MC&A personnel and specific training program for sampling and measurement personnel (§ 70.57(b)(7)). | Specific training program for critical positions (§ 70.87(b)). |
| Licensee Self-Test of Material Control Capabilities | None | Show, by actual tests, that detection and response capabilities can be met (§ 70.87(c)(2)(ii). |
| Accounting Overcheck of Material Control Capabilities | Physical inventories required every 2 months[5] (§ 70.51(e)(3)(i)) | Physical inventory requirements reduced (possibly only 1 per year) (§ 70.87(d)(2)). |
| | Element and isotopic balance required | No isotopic balance required (§ 70.87(d)(2)). |
| | Scrap not measured better than ±10 percent must be recovered within 6 months (§ 70.58(i)(2)). | Licensee has option: either demonstrate that plant LEID is less than 0.4 percent of plant throughput or scrap is measured better than ±10 percent (§ 70.87(d)(4)). |
| | Evaluate shipper/receiver differences on a container, lot and shipment basis (§ 70.58(i)(2)). | Evaluate only on shipment basis (§ 70.87(d)(3)(ii)). |
| | **Collusion Requirements** | |
| Detect Cover-up of Material Loss by Colluding Insiders | No explicit requirements in 10 CFR Part 70. Protection against colluding insiders is provided indirectly through checks and balances inherent in Part 70 and through the physical protection requirements of 10 CFR Part 73. | Protects detection and response capabilities against compromise by colluding insiders (§ 70.89).[6] |

[1] Delayed detection through physical inventories (see System Overcheck).
[2] LEID limited to 0.5 percent of plant throughput in existing requirements. MBA limits would be added for Option 2.
[3] In Option 2, Inventory Difference (ID) and Limit of Error (LEID) would be calculated for each MBA.
[4] A 1974 letter from NRC to licensees calls for a reinventory if ID exceeds 1.5 times LEID limit, plus a shutdown/clean-out inventory if ID exceeds 2.0 times LEID limit. In Option 2, significant MBA loss could cause MBA shutdown.
[5] Every 30 days in Option 2.
[6] Not included in Option 4.

5. In comparing the various options, are there any other areas that should also be considered by this rulemaking effort? If so, please provide specific suggestions concerning what other areas should be considered. Requirements already considered by the staff, but not included in any of the options, include the following: performing a measured material balance about each control unit; placing as much material as possible in items or measurable form; maintaining a redundant set of accounting records; making physical inventories capable of detecting a 5 formula kg loss with a probability of 90%; limiting cumulative shipper/receiver differences to less than 5 formula kg for any 12 month period; performing independent measurements verification on all effluents and waste shipments; maintaining the cumulative inventory difference (CID) less than its standard deviation over 12 months, and assuring that the trend of CID is toward zero, recovering scrap within an inventory period; and performing three random audits per year. We would invite any specific information which could be used in deciding whether to add these or any other requirements to any rule proposed as a result of this rulemaking effort.

6. We invite comments on whether any of the options would adequately help the NRC and the licensee establish conclusively whether a large material discrepancy is due to measurement bias, random measurement error, non-measurement sources, or diversion. If not, what change in existing or draft rules would be recommended to address this issue?

7. We invite comments concerning which, if any, option provides an appropriate level of detection capability for single thefts of significant quantities of SSNM and for multiple, recurring thefts of small quantities.

8. We invite comments on whether the options have appropriate limits on the number of persons and time span, which would permit an investigation of possible losses to accurately resolve the causes of a detection alarm. Also, are these limits adequate to aid plant investigations and retrieval, if needed?

9. We invite comments on the ability of plantwide detection requirements to provide timely detection of losses from multiple subunits in a facility.

10. A preliminary draft of a value/impact analysis of the draft rule for Option 3 is available at the Commission's Public Document Room at

1717 H Street, NW, Washington, D.C. It includes analyses of various alternative performance criteria. We would invite comments on this draft value/impact analysis, in particular on the size of the model facility, the number of employees involved in MC&A functions; the cost of an employee-year; and the extent of current automation of both MC&A and process control systems. We also invite comments on changes that would be effected by the variations of Options 4 and 5.

11. We invite comments on the values and impacts of Option 2 (monthly inventories and MBA accounting).

12. We invite comments on the values and impacts of Option 1 (that is, continuing existing requirements) to help determine whether there are incremental values and costs associated with the other options described in this Advance Notice.

13. We invite comments on the possible applicability of the proposed rulemaking to reprocessing plants. Specifically, we invite comments on the technical feasibility of achieving the performance goals of the proposed rulemaking if applied to reprocessing facilities, and we invite suggesitons for changing the detailed requirements of the options being considered. We also invite suggestions for additional value-impact analyses associated with the expanded scope. In making these comments, it should be noted that: (a) we anticipate that such application would require changes to options 3 through 5 to consider the radioactivity of such material in such facilities; and (b) existing regulations (option 1) for physical inventory frequency and limit of error are different for reprocessing plants than shown in Table 1.

## Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This advance notice of proposed rulemaking affects only six facilities that fabricate high enriched fuel. The companies that own these facilities do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this proposed rule does not fall within the purview of the Act.

## Draft MC&A Reform Amendment for Options 3, 4, and 5

*Introduction*

The following changes to Title 10, Chapter 1, Code of Federal Regulations, Part 70, Domestic Licensing of Special Nuclear Material, constitute the preliminary working draft MC&A Reform Amendments for Options 3, 4, and 5. Differences among the options are indicated by appropriate footnotes.

1. New paragraphs (w) through (kk) would be added to § 70.4 to read as follows:

**§ 70.4 Definitions.**

* * * * *

(w) "Abrupt" when used in connection with a loss, diversion, or unauthorized movement or placement of SSNM, means a time frame contained within the interval between sequential performances of an abrupt detection material control test which covers the material in question.

(x) "Action threshold" means the critical value of a test statistic above which response actions required by § 70.85(a) must be initiated.

(y) "Control quantity" represents a portion of the plantwide loss detection goal. It means a selected quantity assigned to a control unit that results in the sum of control quantities over a subset of control units not exceeding 5 formula kilograms of SSNM.

(z) "Control unit" means an identifiable segment or segments of processing or storage activities.

(aa) "Detection start time" means the start of the time interval within which a material control test is to be completed.

(bb) "Inventory Difference" (ID) has the same meaning as "material unaccounted for" (MUF), as defined in § 70.51(a)(6).

(cc) "Item control test" means either a check of a random sample of tamper-safed items in a storage area to verify their identities, location and tamper-safe integrity, or a check of encapsulate items undergoing processing to verify that all items that entered the process are accounted for.

(dd) "Material control test" means either (1) an item control test, or (2) a comparison of a measured or observed amount or property of material against a reference value and a procedure for deciding if the discrepancy is too large.

(ee) "Material description category" means a specific category of feed, intermediate or final product material, or scrap, recycle or waste material, containing SSNM based upon characteristics of the material, such as enrichment, element concentration, chemical composition, physical composition, matrix materials, impurities, cladding, or degree of assembly. At the time scrap is introduced into the dissolution stage of a recovery operation it may be counted as a single material description category.

(ff) "Recurring" when used in connection with a loss, diversion, or unauthorized movement or placement of SSNM, means a time frame that exceeds the interval of an abrupt detection material control test which covers the material in question.

(gg) "SSNM Control Team" means the group of persons delegated joint responsibility and authority for controlling and maintaining knowledge of the movement and location of SSNM in their control unit(s).

(hh) "Substitution" means a type of diversion in which some or all of the SSNM is replaced either with material other than SNM or with SNM having a different isotopic composition.

(ii) "Tamper-safing" has the same meaning as defined in § 70.51(a)(10).

(jj) "Type A material" means a material containing greater than 7.5 percent by weight SSNM and considered to be attractive for use in the fabrication of a Clandestine Fissile Explosive. "Attractive" materials are specified in Commission material attractiveness guidance that has been classified as NSI: Confidential, and which is available to persons with appropriate information access authorization—see 10 CFR Part 25.

(kk) "Type B material" means all material containing SSNM other than Type A material.

2. New §§ 70.81, 70.83, 70.85, 70.87, 70.89,[1] and 70.91 would be added to Part 70 to read as follows:

**§ 70.81 General performance objective and requirements.**

(a) Each [2] licensee who possesses five or more formula kilograms of strategic special nuclear material (SSNM) at any site other than a production or utilization facility licensed pursuant to Part 50 of this chapter, or operations involved in waste disposal, sealed sources, or irradiated fuel reprocessing facilities, shall implement and maintain a Commission approved material and provide high assurance that activities involving strategic special nuclear material are not inimical to the common defense and security, and do not constitute an unreasonable risk to the

[1] Option 4 excludes the conspiracy threat of § 70.69.

[2] Option 5 differs from this draft text. It reads instead "Each applicant granted a new license or major modification to an existing license to possess ..."

public health and safety. The following design basis threat, where referenced elsewhere in this part, must be used when designing material control and accounting systems to assure prompt detection and response to covert SSNM diversion:

(1) An individual, including an employee (in any position); and

(2) [3] A conspiracy between individuals in any position who may have:

(i) Access to and detailed knowledge of the facilities subject to this section, or

(ii) Items that could facilitate theft or concealment of the theft of special nuclear material (e.g., small tools, substitute material, false documents, tamper-indicating seals, plant records, etc.), or both.

(b) The material control and accounting system must be designed to protect against the design basis threat as stated in § 70.81(a). To achieve the general performance objective specified in § 70.81(a) a licensee shall establish and maintain a material control and accounting system that provides the capabilities and requirements contained in §§ 70.83, 70.85, 70.87, and 70.89.[3]

(c) Each licensee subject to the requirements of paragraph (a) of this section shall:

(1) [4] No later than 150 days after the effective date of these amendments, submit a revised fundamental nuclear material control plan describing how the licensee will comply with the requirements of paragraph (b) of this section; and

(2) No later than 360 days after the effective date of these amendments or 90 days after the plan submitted pursuant to paragraph (c)(1) of this section is approved, whichever is later, implement and comply with the approved plan except for activities specifically identified by the licensee which involve new construction, significant physical modification of existing structures or major equipment installation, for which 540 days after the effective date of these amendments or 180 days after the plan is approved, whichever is later, will be allowed; and

(3) Make no change which would decrease the effectiveness of the material control and accounting system without prior approval of the Commission.

**§ 70.83 Detection capabilities for material control and accounting systems.**

To meet the general performance objective and requirements of § 70.81, a material control and accounting system must provide the detection capabilities described in (a) through (d) of this section.

(a) Promptly detect significant abrupt unauthorized movement or placement of SSNM within control units. To achieve this capability the material control and accounting system must:

(1) Establish control units for the physical and administrative control of SSNM so that all SSNM process segments, storage areas, and movements of SSNM within the material access area (MAA) are in some control unit.

(2) Establish material control tests for each control unit that are collectively sensitive to a control quantity loss of SSNM and that include:

(i) Quantitative tests that are sensitive to a loss: (A) without material substitution and (B) with material substitution where credible substitute material is readily available. These tests must be performed within 24 hours of the detection start time for Type A material and within three working days for Type B material.

(ii) Quantitative tests or qualitative visual or property checks for material substitution where credible substitute material is not readily available. If qualitative material control tests are used to check for substitution, back-up quantitative material control tests sensitive to the substitution must be established and performed within five working days of the detection start time for Type A material and within 15 working days for Type B material.

(3) Establish an action threshold, for each non-item quantitative material control test, that meets the following specifications:

(i) The detection probability for a five formula kilogram loss of SSNM must be at least 99 percent; and

(ii) The detection probability for a control quantity loss of SSNM must be at least 90 percent; and

(iii) The false alarm rate of each test must be such that the alarm level will not result in a predicted number of unresolvable false alarms exceeding a total of 2 formula kilograms in one inventory period.

(4) For an item control test the action threshold must be one missing or compromised item and the sample size must be sufficient to meet the specifications delineated in (a)(3) of this section.

(5) Notwithstanding any other requirement of this section, when at least three [5] people have attested to the contents of a tamper-safed item, the contents of that item need not be remeasured again as long as the tamper-safing and tamper-safed item retain their integrities.

(b) Promptly detect unauthorized movements or placement of SSNM in transfers of material between control units. To achieve this capability the material control and accounting system must include procedures that require:

(1) Movement of material to either:

(i) Be completed within the shift in which the movement is initiated; or

(ii) Be contained in structures for which unauthorized access would be detected by violation of containment integrity.

(2) Confirmation of the completion of transfers subject to paragraph (b)(1)(i) of this section, and initiation of a response if the completion of the transfer is not confirmed within the shift in which it was initiated.

(c) Promptly detect abrupt unauthorized movement or placement of five or more formula kilograms of SSNM on a plant wide basis. To achieve this capability the material control and accounting system must:

(1) Provide at least 90 percent probability of detecting losses that total five or more formula kilograms of SSNM on a plantwide basis, where less than five formula kilograms is diverted from any one control unit. The licensee shall do this by the establishment of control quantities and access limitations for each control unit such that each control unit is included in one of the following four categories:

(i) The sum of control quantities over all control units is no greater than five formula kilograms; or

(ii)(A) The sum of control quantities over all control units under the custody of any two SSNM control teams is no greater than five formula kilograms; and

(B) An individual is authorized hands-on access to SSNM only within the area of responsibility of single SSNM control team in any one week; or

(iii)(A) The control quantity for any one control unit is less than five formula kilograms; and

(B) That control unit is isolated from other control units to: *(1)* assure detection of unauthorized access to SSNM in it and *(2)* channel personnel through a search for concealed SSNM prior to exiting that control unit; or

(iv) Any other method which provides an equivalent probability of detection.

(d) Promptly detect a recurring unauthorized movement or placement of SSNM that has accumulated, or could accumulated, to five or more formula kilograms over a period of up to one year, by periodic analyses of the data

[3] Option 4 excludes the conspiracy threat of § 70.89.

[4] Option 5 would only apply to new licensees and would not include § 70.81(c)(1) and (2)

[5] In Option 4 this should read "two" instead of "three" people.

from each control unit. These periodic analyses must:

(1) Be a least equivalent to the following specifications:

(i) For each appropriate material control test, calculate a cumulative imbalance and a standard deviation of the cumulative imbalance. Maintain an action threshold for detection a five formula kilogram cumulative loss with at least 90 percent probability and initiate response if the cumulative imbalance exceeds that threshold;

(ii) For each quantitative material control test, arrange the data sequentially and analyze the time series for long-term trends. Initiate response if a trend projects to a five formula kilogram loss occurring before the end of the next physical inventory; and

(2) Be performed within one work day for each material control test.

**§ 70.85 Response capabilities for material control and accounting systems.**

To meet the general performance objective and requirements of § 70.81, a material control and accounting system must provide the response capabilities described in this section.

(a) Respond promptly to internal detection alarms that arise from executing § 70.83 by establishing, documenting, maintaining, and being prepared to implement an internal resolution plan that:

(1) Pre-assigns alarm resolution responsibilities;

(2) Identifies those control units where it would be difficult to resolve an alarm if material processing is allowed to continue after the alarm situation is discovered;

(3) Establishes an assessment method to determine the nature of the alarm. This method must provide for prompt check for common errors. If this check does not resolve the alarm, a more detailed assessment must be made. The prompt checks and detailed assessment must be completed within 72 hours, except in the case of a long-term trend where the detailed assessment must be completed as soon as possible but before the trend reaches five formula kilograms. The checks and assessment method must be established to:

(i) Determine the nature and cause of the alarm;

(ii) Retain evidence required to resolve the losses, particularly for those control units identified in paragraph (a)(2) of this section;

(iii) Determine the time span of the potential material loss;

(iv) Identify the material description and quantity, and the control unit(s) involved. To aid in achieving this, the licensee shall be able to narrow to six or fewer the number of possible material description categories involved when an alarm is made; and

(v) Identify persons potentially involved. The licensee shall limit to 12 or fewer the number of personnel who need hands-on access to SSNM over the intervals specified in § 70.83(a)(2)(i) for material control tests. Exceptions to this limit are permitted for emergencies; and

(4) Provides for alerting the security supervisor of the unresolved alarm and for coordinating with the security organization during the remaining alarm resolution period, if the check for common errors does not resolve the alarm.

(b) Respond promptly to external alarm by establishing, documenting, and maintaining at least two external alarm assessment plans, and by being prepared to implement them. These plans must vary in the time necessay for their completion and in the detail of information provided. These plans must include:

(1) Pre-assignment of assessment responsibilities;

(2) A pre-established method for:

(i) Determining the presently authorized material locations within the facility;

(ii) Confirming the material presence in those locations; and

(iii) Reviewing material control and accounting for possible loss indications; and

(3) A procedure for implementing the internal alarm resolution plan specified in § 70.85(a) whenever there is a discrepancy indicating a material loss during an external alarm assessment.

(c) As a result of the checks and assessments required in paragraphs 70.85 (a) and (b) above the licensee shall take the following corrective action:

(1) Return out of place SSNM to the appropriate control unit;

(2) Update and correct the appropriate records; and

(3) Modify the MC&A system with the objective of preventing similar occurences in the future.

(d) The above licensee shall report to the appropriate NRC regional office listed in Appendix A of Part 73 of this chapter, as follows:

(1) Within one hour, positive indications of SSNM loss;

(2) Within one hour, alarms that indicate a loss of five formula kilograms or more of SSNM;

(3) Within 72 hours of the alarm, unresolved alarms; and

(4) Within one hour, the results of external alarm assessments.

(e) In the event that a detection alarm indicates a loss of five formula kilograms or more of SSNM, operations in the control unit(s) related to the alarm must be suspended until either the alarm is resolved or until authorization from the Commission is received to resume operations. Suspension of operations must include:

(1) Stopping the introduction of SSNM into the control unit(s), except for vaults; and

(2) Not releasing any SSNM from the control unit(s) for further processing, except to convert the SSNM into a form suitable for measurement and resolution of the alarm.

**§ 70.87 System overcheck structure for material control and accounting systems.**

To meet the general performance objectives and requirements of § 70.81, a material control and accounting system must provide the system overcheck programs described in this section.

(a) *Management control.* The licensee shall establish, document, maintain, and follow a management program which implements effective management control over material control and accounting activities. The program must:

(1) Define the essential material control and accounting functions and activities;

(2) Document material control and accounting functional relationships, responsibilities and authority; and

(3) Document the identity and assignment of those material control and accounting functions that should be performed independently to assure that the functions performed by one individual, or organizational unit, control or check the functions performed by other individuals or organizational units. As a minimum, the licensee shall:

(i) Assign the overall responsibility for maintaining material control and material accounting, in conformance with §§ 70.83, 70.85, 70.87, 70.89,[6] and 70.91, to a single individual at an organizational level that assures independence of action and objectiveness of decision. This position must be free of any conflicts of interest with respect to the production function and any other plant functions whose execution may weaken or compromise the material control and accounting system;

(ii) Assign responsibility for material control in each control unit to a designated SSNM control team. Control team responsibilities must include ensuring that SSNM is handled, controlled, measured and accounted for in accordance with prescribed plans and procedures. Measurements of and controls over transfer of responsibility

[6] Option 4 omits § 70.89.

for SSNM from one team to another must be of sufficiently high quality that losses of material can be charged to a single team. The team shall not:

(A) Be responsible for more than three control units;

(B) Include individuals who were members of another SSNM control team within the last week; and

(C) Include personnel other than those responsible for licensed production activities or SSNM control team duties within the control unit.

(iii) Assign responsibility for plant wide material accounting data review to personnel independent of those assigned control responsibility; and

(iv) Assure that material control and accounting procedures and revisions thereto are documented and approved by at least two levels of management knowledgeable in material control and accounting functions and requirements, one of whom must be the individual identified in § 70.87(a)(3)(i).

(b) *Selection and training program.* Each licensee shall establish, document, maintain, and follow a program for the qualification and training of material control and accounting personnel. This program shall ensure that personnel, working in positions involving tasks where error could directly degrade the safeguards capabilities of the MC&A system, are competent and maintain a high level of safeguards awareness. The program must:

(1) Define the essential functions of, and the minimum qualifications for personnel in, these positions;

(2) Assure that staff persons in these such positions are provided with the training necessary to discharge their responsibilities in a knowledgeable manner and that this knowledge is periodically updated;

(3) Assure through testing or other demonstration of competence that staff members have the knowledge they need to perform their jobs correctly; and

(4) Include provisions for making staff members aware of the safeguards importance of their material control and accounting activities and of their being alert to indications of compromise of the material control and accounting system.

(c) *Accountability Monitoring Program.* (1) To ensure and demonstrate that material control and accounting activities are properly designed and implemented, the licensee shall establish a documented accountability monitoring program. This program must ensure through tests, demonstrations, and periodic evaluations of performance, that material control and accounting systems, procedures and components provide reliable information, not susceptible to falsification, and that they meet established performance standards.

(2) The accountability monitoring program must include:

(i) A quality control program which:

(A) Meets the provisions of § 70.57 for all measurements used in satisfying the provisions of § 70.87(d);

(B) Ensures that the estimate of standard deviation for each material control test reflects the actual operational conditions and error sources; and

(C) Ensures that performance standards for other MC&A procedures and components are met.

(ii) A self-test program which demonstrates, subject to appropriate constraints, that the material control and accounting detection and response capabilities are maintained at the performance levels set in §§ 70.83 and 70.85.

(iii) At least one audit per year, which must cover the material control and accounting records, be performed by knowledgeable personnel and assess the effectiveness of the entire material control and accounting system, particularly the capabilities required by § 70.83 and § 70.85. At a minimum each audit shall be performed by individuals independent of both the licensee's nuclear material control management and personnel who have direct responsibility for the receipt, custody, utilization, measurement, measurement quality, and shipment of nuclear material. In addition:

(A) At least one of any two successive audits shall be unannounced; and

(B) At least one of any two successive audits shall be performed by knowledgeable individuals not employed at the facility.

(iv) Provision for reporting of accountability monitoring program findings to a level of plant management higher than the individual designated under § 70.87(a)(3)(i).

(v) Provision that management responses to deficiencies identified are taken promptly to eliminate identified problems.

(d) *Accounting and Data Analysis Program for SSNM.* (1) Each licensee shall establish, document, maintain, and follow an accounting and data analysis program for SSNM to demonstrate that material control and accounting systems have been effective within certain statistical limits. This accounting and data analysis program for SSNM must:

(i) Provide accurate measurements and written records of the licensee's SSNM holdings and material transactions, including discards, burials or other loss streams, as necessary to allow physical inventory requirements to be met;

(ii) Provide a capability for performing plant wide systems checks of the effectiveness of the material control and accounting system to accurately account for SSNM; and

(iii) Monitor and analyze material control and accounting data to identify discrepancies of possible safeguards significance.

(2) The licensee shall periodically perform a measured physical inventory, by element, of all SSNM in its possession. The minimum frequency of physical inventories must be set by the Commission on a case by case basis. Except for special physical inventories ordered by the Commission, the frequency of required physical inventories must be at intervals no longer than 12 months nor less than 2 months. The licensee shall assure that twice the standard deviation of the component of inventory difference due to measurements does not exceed the larger of a limit of 0.4 percent of plant throughput for the inventory period; or a limit of 200 grams of plutonium or U-233, or 300 grams of U-235; or exceed alternative limits authorized by the Commission on a case by case basis. Within 30 days after the start of each ending physical inventory, the licensee shall:

(i) Calculate, for the material balance interval terminated by that inventory, the inventory difference (ID) for the uranium and/or plutonium element(s), and its associated standard deviation;

(ii) Compare each ID calculated pursuant to paragraph (d)(2)(i) of this section with twice its associated standard deviation; and

(iii) Reconcile and adjust the book records to reflect the results of the physical inventory.

(3) The licensee shall establish, maintain, document, and follow procedures to:

(i) Assure accurate identification and measurement of the quantities of SSNM received and shipped by a licensee and the determination of the associated standard deviations;

(ii) Review, evaluate and resolve significant shipper-receiver differences on a shipment and on a cumulative basis for shipments of like material; and

(iii) Assure that twice the licensee's standard deviation for cumulative shipments or receipts on correspondent accounts, individually or collectively, for any period up to one year, does not exceed two formula kilograms of SSNM.

(4) The licensee shall establish, document, maintain, and follow a program for accountability control of

scrap which assures that a licensee's recovered scrap is segregated from the scrap of other licensees or contractors and that:

(i) Any scrap measured with an uncertainty of greater than ±10 percent is recovered so that the results are segregated by inventory period and received by the end of the inventory period after the period in which the scrap was generated; or

(ii) The licensee demonstrates that the total scrap measurement uncertainty will not cause twice the standard deviation of inventory difference to exceed the larger of a limit of 0.4 percent of plant throughput for the inventory period; or a limit of 200 grams of plutonium or U-233, or 300 grams of U-235; or to exceed an alternative limit authorized by the Commission, pursuant to § 70.87(d)(2).

(e) *Accounting investigation/resolution program.* Each licensee shall establish an accounting investigation/resolution program that ensures that the material control and accounting system is promptly modified where necessary so that its ability to demonstrate control of SSNM within satisfactory limits is maintained. This program must:

(1) Include plans to investigate inventory difference, shipper-receiver difference, and cumulative shipper-receiver difference that exceed twice their associated standard deviations and to promptly determine the cause. Differences not exceeding the following do not require investigation: for inventory differences, 50 grams; for individual shipper-receiver differences, 50 grams on whole shipments; and for cumulative shipper-receiver differences, 100 grams.

(2) In the event of an accounting irregularity, implement the plans devised under paragraph (e)(1) of this section;

(3) Assure that appropriate corrective action is taken to eliminate the causes of accounting irregularities; and

(4) Modify the plans under paragraph (e)(1) of this section to incorporate the results of investigations of accounting irregularities and other pertinent information as it becomes available.

**§ 70.89[7] Protection against falsification of material control and accounting records or other compromise of the material control and accounting system by the design basis threat.**

(a) To meet the general performance objective and requirements of 70.81, each subject licensee shall maintain a self-protecting material control and accounting system which, in addition to satisfying the provisions of §§ 70.83 and 70.85, also contains sufficient redundancy and diversity to provide a high level of protection against significant reduction of the system's detection or response capabilities as a result of falsification or deceit by the design basis threat stated in § 70.81(a).

(b) To achieve this capability the licensee shall establish, maintain, and follow a material control and accounting program which:

(1) Establishes a system of independent checks and administrative controls that provides multiple constraints on the ability of the design basis threat to perform the following acts without detection within the time periods given below:

*Act and Detection Time*

Unauthorized or fraudulent transfers of materials between SSNM control teams involving 350 formula grams or more of SSNM—5 working days

Falsification or deceit resulting in the failure of a material control test to detect the loss of a control quantity of SSNM:

Type A material—5 working days

Type B material—15 working days

**§ 70.91 Record keeping.**

(a) Each licensee subject to § 70.81 shall establish, maintain and retain for the period specified records of the information and data that are used to satisfy the capabilities of, and document the actions taken in accordance with, §§ 70.83, 70.85, 70.87, and 70.89.[8] If a retention period is not otherwise specified by regulation or license condition, records must be maintained until the Commission authorizes their disposition. The following table gives specific record retention periods.

**Table—Retention Periods for Specific MC&A Records**

| Description | Retention period |
|---|---|
| Records of material receipt and possession. | During possession and for five years after possession ends. |
| Process monitoring data used for detection and response. | One year. |
| Records of the training and qualification of personnel. | Two years. |
| Reports of the independent assessment, self-test, and accountability control program. | Five years. |
| Records of internal transfers of SSNM between stewardship teams. | Five years. |

(b) An authorized representative of the Commission may copy, at a place other than the licensee's facility, and take away copies for Commission use, any record required to be kept by the regulations in this part or by a license condition.

Dated at Washington, D.C., this 4th day of September 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

*Secretary of the Commission.*

[FR Doc. 81-26163 Filed 9-9-81; 8:45 am]

BILLING CODE 7590-01-M

[7] This section is not part of Option 4.

[8] Option 4 omits § 70.89.

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## DEPARTMENT OF ENERGY

## Economic Regulatory Administration

## 10 CFR Part 211

**[Docket No. ERA-R-81-09]**

## Adjustment of Naphtha Entitlement Benefits Received By Puerto Rican Petrochemical Producers

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of Intent to Issue a Decision.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of its intent to issue a Decision adjusting the level of naphtha entitlement benefits received by Puerto Rican petrochemical producers under the Puerto Rican Naptha Entitlements Program. ERA has determined that due to an inadvertent miscalculation by the Entitlements Office, Puerto Rican petrochemical producers received excessive naphtha entitlement benefits during the months of October 1976 through October 1977 and January through March 1978. The adjustment reflects a recalculation of naphtha entitlement benefits based on the correct application of the reduction factor contained in the regulations in effect during the months indicated. DOE intends to incorporate the adjustment in the final Entitlements "Clean-up" Notice that will be published on the basis of the entitlement adjustment mechanism recently adopted.

**DATES:** Written comments by September 21, 1981.

**ADDRESSES:** Written comments should be directed to the Office of Public Hearings Management, Economic Regulatory Administration, Room B-210, Box YA, 2000 M Street, NW, Washington, D.C. 20461.

**FOR FURTHER INFORMATION CONTACT:**

Cynthia Ford (Office of Public Hearings Management), economic Regulatory Administration, Room B-210, 2000 M Street, NW, Washington, D.C. 20461 (202) 653-3971;

David Welsh (Entitlements Program Office), Economic regulatory Administration, Room 6212, 2000 M Street, NW, Washington, D.C. 20461 (202) 653-3459;
Margaret A. Carroll (Program Operations Office), Economic Regulatory Administration, Room 7202, 2000 M Street, NW, Washington, D.C. 20461 (202) 653-3254;
William Funk or Christopher Was (Office of General Counsel), Department of Energy, Room 6A-113, 1000 Independence Avenue, SW, Washington, D.C. 20585 (202) 252-6736 (Funk); 252-6744 (Was).

**SUPPLEMENTARY INFORMATION:**

I. Background and Proposed Action
II. Comment Procedures

## I. Background and Proposed Action

The Puerto Rican Naphtha Entitlements Program was adopted in 1976 in order to alleviate a competitive disadvantage suffered by Puerto Rican petrochemical producers in relation to other domestic petrochemical producers located on the mainland. *See* 10 CFR 211.67(d)(5), 41 FR 30321 (July 23, 1976). Under the regulations adopted in 1976 and in effect through March 1, 1981,[1] Puerto Rican firms received an entitlement benefit for each eligible barrel of naphtha imported for use as a petrochemical feedstock. The eligible barrels of naphtha imported into Puerto Rico by the Puerto Rican petrochemical producers were included in refiners' crude oil runs to stills for purposes of the calculations under the Entitlements Program. *See* former § 211.67(d)(5)(i). Thus, the maximum value of the per barrel naphtha entitlement for any month could not exceed the value of a single crude oil runs credit.[2] However, when the difference between the weighted average per barrel cost of all imported Puerto Rican naphtha feedstocks and an imputed per barrel cost of domestically produced naphtha (the naphtha cost differential) was less than a modified crude oil runs credit (calculated by excluding the small refiner bias benefits under § 211.67(e) and the adjustment for residual fuel oil imported for sale on the East Coast under § 211.67(d)(4)) for a particular month, the total number of barrels of imported naphtha was to be reduced by application of the ratio expressed as the naphtha cost differential divided by the modified crude oil runs credit. *See* former § 211.67(d)(5)(iii).[3] The application of this reduction factor determined the number of barrels of imported naphtha eligible for entitlement benefits. Thus, when market conditions were such that the reduction factor became operative, Pureto Rican petrochemical producers should not have received entitlement benefits for *all* of their barrels of imported naphtha. In effect, the value of the naphtha entitlement benefit, on a *total* barrels of imported naphtha basis, should have been less than a full crude oil runs credit.

In administering the Program, however, the Entitlements Office of the Office of Petroleum Operations incorrectly applied the reduction factor provided for in former § 211.67(d)(5)(iii) during those months when the naphtha cost differential was less than the modified runs credit. The Entitlements Office used the following incorrect methodology to calculate the number of naphtha entitlements to be issued to Puerto Rican petrochemical firms: First, the Entitlements Office determined, as provided for under § 211.67(a)(1), that the number of entitlements to be issued equaled the volume of firms' runs to stills (in this case, their eligible naphtha imports) multiplied by the national domestic crude oil supply ratio (DOSR) for the particular month. Second, the Entitlements Office purported to multiply the volume of naphtha imports by the reduction factor specified in § 211.67(d)(5)(iii) in the equation identified in the preceding sentence. The reduction factor used by the Entitlements Office, however, was incorrectly expressed as the naphtha cost differential *divided by* the entitlements price times the *regular DOSR* (the equivalent of the regular runs credit term in the denominator), rather than correctly dividing by a denominator expressed as the product of the entitlements price times *the modified DOSR* (in order to derive the *modified* runs credit), as specified in § 211.67(a)(5)(iii). Third, the Entitlements Office consequently cancelled the regular DOSR incorrectly used in the denominator of the reduction factor with the correctly expressed regular DOSR in the numerator to derive a "naptha ratio" that was not provided for and inconsistent with the applicable regulations. Fourth, this "naphtha ratio" was multiplied by the reported volume of eligible naphtha imports for each firm to calculate the number of entitlements issued that were reflected on each monthly Notice. The methodology used by the Entitlements Office described above is set forth step-by-step in the footnote below.[4] The errors made by the

[1] The Puerto Rican Naphtha Entitlements regulations were amended effective March 1, 1981. *See* 46 FR 5722 (January 19, 1981). The amendments have no effect on the period from October 1976 through March 1978, which is the subject of this Notice.

[2] A "runs credit" for a month is that fraction of an entitlement derived by multiplying the National Domestic Crude Oil Supply Ratio (DOSR) for that month, *see* § 211.62, by the price of an entitlement for that month.

[3] Former § 211.67(d)(5)(iii) of the regulations provided that the number of barrels of naphtha imported into Puerto Rico eligible to be included in refiners' crude oil runs to stills was to *be reduced* by a fraction equal to the naphtha cost differential divided by the modified crude oil runs credit. The application of that fraction could have the effect of *reducing* the volume of eligible naphthas imported into Puerto Rico only when the numerator (the naphtha cost differential) was less than the denominator (the modified runs credit).

4/ The step-by-step calculations by the Entitlements Office were as follows:

1. Crude Oil
   Entitlements = Volume x DOSR

2. Naphtha
   Entitlements = Volume x Reduction factor specified in 211.67(a)(5)(iii) in months when applicable x DOSR

3. Naphtha
   $$\text{Entitlements} = \text{Volume} \times \frac{\text{NCD}}{\text{EP} \times \underline{\text{DOSR}}} \times \text{DOSR}$$
   [Modified DOSR as specified in 211.67(a)(5)(iii)]

4. Naphtha
   $$\text{Entitlements} = \text{Volume} \times \frac{\text{NCD}}{\text{EP} \times \underline{\text{DOSR}}} \times \text{DOSR}$$
   [Cancellation incorrect because terms not identical]

5. Naphtha
   $$\text{Entitlements} = \text{Volume} \times \frac{\underline{\text{NCD}}}{\text{EP}}$$
   (the so-called "naphtha ratio")

Where:
Volume = runs to stills (in this case, the number of eligible barrels of naphtha imports)
NCD = Naphtha Cost Differential derived by subtracting the imputed cost of domestic naphtha from the weighted average cost of all eligible naphtha imports into Puerto Rico
EP = Entitlements Price
DOSR = National Domestic Crude Oil Supply Ratio

Entitlements Office in its calculations are underlined, and the corrections are noted in brackets immediately following those errors.

The proper application of the regulations by the Entitlements Office should have been as follows: First, the volume of eligible naphtha imports should have been reduced in the proper months by multiplying by the correct reduction factor specified in § 211.67(a)(5)(iii), using the *modified* runs credit (incorporating a calculation using a *modified* DOSR) in the denominator. Second, this reduced volume of eligible naphtha imports should have been multiplied by the regular DOSR, as is customary, to derive the number of naphtha entitlements.

The effect of this misapplication of the regulations was that the Puerto Rican petrochemical firms received a greater naphtha entitlement benefit than they should have in those months when the reduction factor applies because the naphtha cost differential was less than the modified runs credit.[5] After reviewing the calculations made by the Entitlements Office, we have determined that the months in which the Puerto Rican petrochemical firms received excessive naphtha entitlement benefits were October 1976 through October 1977, and January through March 1978.

We have recalculated the naphtha entitlement benefis for all of the Puerto Rican petrochemical firms (including Union Carbide Caribe, Inc., Phillips Puerto Rico Core, Inc. and Puerto Rico Olefins Co.) except the Commonwealth Oil Refining Co., Inc. (CORCO) in each of the months indicated above. The Entitlements Office similarly misapplied the regulation with respect to its calculations of CORCO'S naphtha entitlement benefits in each of the months indicated. However, commencing with its runs to still in February, 1977, CORCO had received exception relief that permitted it to substitute *its* weighted average cost of naphtha imports for the weighted average cost of *all* Puerto Rican firms in the numerator of the reduction factor § 211.67(d)(5)(iii). *See* ordering paragraph 4 of *Commonwealth Oil Refining Co., Inc.*, 5 FEA ¶83,132 (1977) (The "1977 Exception").[6] Subsequently, it was brought to the attention of the Office of Hearings and Appeals (OHA) that the Entitlements Office had misconstrued the 1977 Exception and permitted CORCO to receive naphtha entitlements benefits in excess of the single runs credit cap that existed under the regulations. *See Commonwealth Oil Refining Co., Inc.*, 5 DOE ¶82,561 (1980) (the "1980 Decision"). OHA noted that CORCO calculated that it had received approximately $38 million in naphtha entitlements benefits in excess of the single runs credit cap as a result of the misapplication of the 1977 Exception by the Entitlements Office. Id. at p. 85,266. In its 1980 Decision, OHA determined that DOE should not take any further action to require CORCO to refund the excessive naphtha entitlements that the firm received as a result of the misapplication of the 1977 Exception by the Entitlements Office. *See* ordering paragraph 6 of 5 DOE ¶82,561.

The action proposed to be taken in this Decision is to recover excessive naphtha entitlement benefits from Puerto Rican firms when the reduction factor in the regulations should have applied and those firms should have received entitlements on less than the entire volume of their naphtha imports (in effect, less than a full runs credit on all eligible barrels of naphtha imports). OHA's 1980 Decision addressed the situation where CORCO received *more* naphtha entitlement benefits than a single runs credit and, notwithstanding the "cap" specified in the regulations, determined that DOE should not take any action to require CORCO to refund the excessive benefits received as a result of the misapplication of the 1977 Exception. The 1980 Decision also was limited to those months in which the calculation of CORCO's naphtha entitlements by the Entitlements Office was affected by the misapplication of 1977 Exception by that Office. *See* ordering paragraph 6 of 5 DOE ¶82,561. The 1977 Exception was applied by the Entitlements Office in several of the months covered by our analysis and review in this proceeding (February through October 1977, and January through March 1978). Therefore, the restriction imposed by ordering paragraph 6 of OHA's 1980 Decision precludes any action by ERA to recover excessive naphtha entitlement benefits from CORCO for February through October 1977, and January through March 1978. Accordingly, we propose to recalculate CORCO's naphtha entitlement benefits and to require the firm to refund excessive benefits only for those months covered by the analysis in this proceeding in which the 1977 Exception was not misapplied by the Entitlements Office, i.e. October 1976–January, 1977. *See* ordering paragraph 6 of 5 DOE ¶82,561.

For the other three firms, we have recalculated the naphtha entitlement benefits based on a correct application of the regulation for each of the months (October 1976 through October 1977, and January through March 1978) in which the naphtha cost differential was less then the modified runs credit provided for in former § 211.67(a)(5)(iii). For each of those months, the naphtha entitlement benefit was reduced by application of the reduction factor provided for in former § 211.67(d)(5)(iii). The aggregate amount by which the Puerto Rican petrochemical firms were overcompensated in those months (including CORCO for the period October 1976 – January 1977) is $2,011,179.32. We have not detailed our calculations of the excessive naphtha entitlements benefits received by each Puerto Rican petrochemical producer on a monthly basis in this Notice because we believe that information is arguably confidential under 18 U.S.C. 1905. However, we have notified each of the

[5] The misapplication of the regulations by the Entitlements Office did not affect the calculation of naphtha entitlements in those months when the naphtha cost differential exceeded a modified runs credit, because in months when the incorrectly derived "naphtha ratio" exceeded the DOSR, the Entitlements Office multiplied the volumes of naphtha imports by the DOSR to calculate entitlements. By using the DOSR rather than the "naphtha ratio" in these months, the Entitlements Office "capped" the value of the naphtha entitlement benefit at a single runs credit, consistent with the regulations.

[6] This exception relief for CORCO was extended through September 30, 1979 in *Phillips Puerto Rico Core, Inc., et al.*, 2 DOE ¶81,106 (1978).

affected Puerto Rican petrochemical firms by letter of our recalculation of the level of their naphtha entitlement benefits. Attached to each of those letters is a table that details our calculation of the amount of excessive naphtha benefits received by the particular firm in each of the months in question.

Our action in recalculating the level of naphtha entitlement benefits received by the Puerto Rican petrochemical producers ensures that the application of the regulations that were in effect was consistent with their terms. We intend to issue a Decision that will require the adjustments described in this Notice to be incorporated on the final Entitlements "Clean-up" Notice that will be published on the basis of the mechanism established to allow for entitlement adjustments. *See* 46 FR 36092 (July 13, 1981).

## II. Comment Procedures

Any person who wishes to file written comments concerning this Notice with ERA will be permitted to do so. All comments must be sent to the Office of Public Hearings Management at the above address before September 21, 1981. If comments contain information or data considered confidential by the person filing the comments, two copies should be furnished. The copy containing the claimed confidential information should be marked "confidential." A second "public disclosure" copy with confidential material deleted should also be filed. All "public disclosure" copies received by ERA will be available for public inspection in the Freedom of Information Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays, and at the Office of Public Information, Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C.

Issued in Washington, D.C. on September 2, 1981.

Barton R. House,

*Acting Administrator, Economic Regulatory Administration.*

[FR Doc. 81-26317 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-01-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 75

[Airspace Docket No. 81-ASW-36]

## Alteration of Jet Routes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to realign Jet Route No. J-15 between Roswell, NM, and Albuquerque, NM, and to realign Jet Route No. J-74 between St. Johns; AZ, and Texico, NM. these realignments would provide better navigational signal coverage by incorporating Corona, NM, VORTAC which is located approximately midpoint between those routes. This action would increase air safety in the area.

**DATES:** Comments must be received on or before October 13, 1981.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 81-ASW-36, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW, Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone: (202) 426-8783.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81-ASW-36." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs, should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

### The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route No. J-15 between Roswell, NM, Albuquerque, NM, via Corona, NM, and realign Jet Route No. J-74 between St. Johns, AZ, and Texico, NM, via Corona, NM. This action would aid pilots to remain on the centerline of J-74, thereby increasing aviation safety. In addition, the realignment of J-15 would improve the arrival/ departure traffic flow in the Albuquerque terminal area. Section 75.100 was republished in the Federal Register on January 2, 1981 (46 FR 834).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (46 FR 834) by amending the following:

§ 75.100 [Amended]

1. Jet Route No. 15 [amended]

By deleting the words "Roswell, NM; INT of the Roswell 319° and the Albuquerque, NM, 126° radials; Albuquerque; Farmington, NM;" and substituting for them the words "Roswell, NM; Corona, NM; Albuquerque, NM; Farmington, NM;"

2. Jet Route No. 74 [amended]

By deleting the wordsw "Socorro, NM; Texico, NM;" and substituting for them the words "Socorro, NM; Corona, NM; Texico, NM;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979; (3) does not warrant preparation of a regulatory evaluatioon as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., September 2, 1981.

John W. Baier,

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 81-26272 Filed 9-9-81; 8:45 am]

BILLING CODE 4910-13-M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 271

**[Docket No. RM79-76 Colorado-16)]**

## High-Cost Gas Produced From Tight Formations; Proposed Rulemaking

**AGENCY:** Federal Energy Regulatory Commission; Energy.

**ACTION:** Notice proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Sussex Formation be designated as a tight formation under § 271.703(d).

**DATE:** Comments on the proposed rule are due on October 5, 1981.

*Public Hearing:* No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on September 21, 1981.

**ADDRESS:** Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE, Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Leslie Lawner, (202) 357-8307, or Victor Zabel, (202) 357-8616.

**SUPPLEMENTARY INFORMATION:** Issued: September 4, 1981.

### I. Background

On August 28, 1981, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Sussex Formation located in Weld County, Colorado, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Sussex Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

### II. Description of Recommendation

The recommended formation underlies certain lands in Weld County, Colorado, between the towns of Gilcrest and La Salle. The recommended area consists of Township 4 North, Range 66 West, 6th P.M., Sections 2, 3, and 10, Section 11-N 1/2. Section 15-W½; Township 5 North, Range 66 West, 6th P.M., Sections 33, 34, and 35. There is no Federal land within the recommended area. The Sussex pay zone is usually found at a depth of 4,400 to 4,500 feet.

### III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG-20 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 *FR* 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Sussex Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

### IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before October 5, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Colorado-16), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission.

Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than September 21, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

*Director, Office of Pipeline and Producer Regulation.*

## PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (65) to read as follows:

**§ 271.703 Tight formations.**

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(48) through (64) [Reserved]

(65) *Sussex Formation in Colorado.* RM79–76 (Colorado–16).

(i) Delineation of formation. The Sussex Formation is found in Weld County, Colorado, in Township 4 North, Range 66 West, 6th P.M., Sections, 2, 3, and 10, Section 11–N ½, Section 15–W½; Township 5 North, Range 66 West, 6th P.M., Sections 33, 34, and 35.

(ii) *Depth.* The average depth to the top of the Sussex Formation is between 4,400 and 4,500 feet.

[FR Doc. 81-26459 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

## DEPARTMENT OF JUSTICE

## Drug Enforcement Administration

## 21 CFR Part 1308

## Schedules of Controlled Substances; Proposed Placement of N-ethylamphetamine into Schedule I

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice is a proposed rule issued by the Acting Administrator of the Drug Enforcement Administration (DEA) to place the chemical substance, N-ethylamphetamine, into Schedule I of the Controlled Substances Act (CSA). This proposal follows DEA's review of the abuse and clandestine trafficking of N-ethylamphetamine, which was found by the Assistant Secretary for Health, Department of Health and Human Services, to support DEA's position that the substance be placed in Schedule I of the CSA. The effect of this proposal would be to require that the manufacture, distribution, security, registration, recordkeeping, quotas, inventory, order forms, criminal liability, exportation, and importation of N-ethylamphetamine be subject to controls for Schedule I substances.

**DATE:** Comments must be received on or before November 9, 1981.

**ADDRESS:** Comments and objections should be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 I Street, NW, Washington, D.C. 20537, Attention: DEA Federal Register Representative.

**FOR FURTHER INFORMATION CONTACT:** Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Telephone: (202) 633–1366.

**SUPPLEMENTARY INFORMATION:** On April 10, 1980, the Administrator of DEA sent information concerning the abuse and trafficking of N-ethyl-alpha-methylphenethylamine to the Assistant Secretary for Health, Department of Health, Education and Welfare (now Department of Health and Human Services). The Administrator requested of the Assistant Secretary a scientific and medical evaluation of the information concerning N-ethylamphetamine and a recommendation that it be controlled under the Controlled Substances Act. On August 6, 1981, the Assistant Secretary for Health replied:

August 6, 1981.

Mr. Francis M. Mullen, Jr.

*Acting Administrator, Drug Enforcement Administration*

1405 Eye Street, N.W.

Washington, D.C.

Dear Mr. Mullen: Pursuant to section 201(b) of the Controlled Substances Act (CSA), 21 U.S.C. 811(b), this letter is notification of the Department of Health and Human Services' recommendation for the control of N-ethylamphetamine in Schedule I of the CSA. N-ethylamphetamine is a central nervous system stimulant that has no recognized medical use in treatment in the United States.

The substance is clandestinely synthesized, illegally sold and abused. The Food and Drug Administration reviewed the document entitled *N-ethylamphetamine: Evaluation and Control Recommendation* which was prepared by your scientific staff. The FDA relied on that document in making the following findings pursuant to 21 U.S. C. 811(b)

1. *N-ethylamphetamine has a high potential for abuse.* This finding is based on the fact that the abuse potential of N-ethylamphetamine is of the same order as methamphetamine, a CSA Schedule II substance of high abuse potential.

2. *N-ethylamphetamine has no currently accepted medical use.* This finding is based on the substance has not been studied for any medical use in the United States and has not received approval for marketing.

3. *There is a lack of accepted safety for use under medical supervision of the substance N-ethylamphetamine.* This finding is based on the fact that the substance has never been studied for medical use in the United States. Therefore, its safety for use under medical supervision is unknown.

The FDA considered DEA's analysis and recommendation scientifically sound and concurred in the recommendation that N-ethylamphetamine be scheduled in CSA Schedule I without further delay. I concur with that recommendation.

Should you have any questions concerning this issue, the FDA Drug Abuse Staff is prepared to respond.

Sincerely yours,

Edward N. Brandt, Jr., M.D.,

*Assistant Secretary for Health.*

The Drug Enforcement Administration has conducted a review of N-ethylamphetamine which has included the following:

1. Published scientific and medical literature from the United States and other countries regarding this substance;

2. Materials on file with the Drug Enforcement Administration;

3. Drug reporting systems within DEA and various state and local establishments; and,

4. The legislative history of the Controlled Substances Act.

Based upon the investigations and review of the Drug Enforcement Administration and relying on the

scientific and medical evaluation and the recommendation of the Assistant Secretary for Health, Department of Health and Human Services, received pursuant to sections 201(a) and 201(b) of the Act [21 U.S.C. 811(a) and 811(b)], the Acting Administrator of the Drug Enforcement Administration finds that:

1. Based on information now available, N-ethylamphetamine has a high potential for abuse;

2. N-ethylamphetamine has no currently accepted medical use in treatment in the United States; and,

3. There is a lack of accepted safety for use of N-ethylamphetamine under medical supervision.

## PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Therefore, under the authority vested in the Attorney General by section 201(a) of the Act [21 U.S.C. 811(a)], and delegated to the Acting Administrator of the Drug Enforcement Administration by regulations of the Department of Justice [28 CFR Part 0.100], the Acting Administrator hereby proposes that Part 1308, Title 21, Code of Federal Regulations (CFR), be amended by revising paragraph (f) of § 1308.11 of Title 21, Code of Federal Regulations (CFR), to include N-ethylamphetamine therein as item (2), to read as follows:

§ 1308.11 Schedule I.

* * * * *

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

| | |
|---|---|
| (1) Fenethylline | 1503 |
| (2) N-Ethylamphetamine | 1475 |

All interested persons are invited to submit their comments or objections in writing regarding this proposal. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief. Comments and objections should be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

In the event that comments or objections to this proposal raise one or more issues which the Acting Administrator finds, in his sole discretion, warrant a hearing, the Acting Administrator will have published in the Federal Register an order for a public hearing which will summarize the issues to be heard and which will set the time for the hearing (which will not be less than 30 days after the date of the order).

Pursuant to Title 5, United States Code, section 605(b), the Acting Administrator certifies that control of N-ethylamphetamine, as proposed herein, will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act. The chemical substance described in this notice has no legitimate medical use in the United States.

In accordance with the provisions of section 201(a) of the Controlled Substances Act (21 U.S.C. 811(a)), this scheduling action is a formal rulemaking "on the record after opportunity for a hearing." Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, have been exempted from the consultation requirements of Executive Order 12291.

Dated: September 2, 1981.

Francis M. Mullen, Jr.,

*Acting Administrator, Drug Enforcement Administration.*

[FR Doc. 81-26413 Filed 9-9-81; 8:45 am]
BILLING CODE 4410-09-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[A-6-FRL 1920-1]

### Approval and Promulgation of State Implementation Plans; Arkansas: Prevention of Significant Deterioration Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** On August 7, 1980 (40 FR 52676), EPA promulgated revised regulations for Prevention of Significant Deterioration of Air Quality (PSD) and requirements for States to develop and submit revised regulations for PSD. The State of Arkansas has responded and on April 23, 1981, submitted to EPA a revision to the State Implementation Plan (SIP) to incorporate by reference these PSD Regulations.

Based on this Agency's review of the material submitted, EPA is proposing to approve this revision and invites public comment on this proposed action.

**DATES:** Interested persons are invited to submit comments on this proposed rulemaking on or before October 13, 1981.

**ADDRESSES:** Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Programs Branch, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State submittal and comments received on this proposed rulemaking will be available for inspection during normal business hours at the above address and the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 "M" Street, SW., Washington, D.C. 20460;
Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209.

**FOR FURTHER INFORMATION CONTACT:** Bruce A. Furbush, Technical Support Section, Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1594 or (FTS) 729-1594.

**SUPPLEMENTARY INFORMATION:** On August 7, 1980, (45 FR 52676), EPA promulgated the latest requirements to assist States in preparing State Implementation Plan (SIP) revisions meeting the new requirements for Prevention of Significant Deterioration (PSD). The State has complied with these requirements and has adopted and submitted a revised regulation, section 8.1, incorporating by reference 40 CFR 52.21 (b) through (r) as amended on August 7, 1980. EPA has reviewed the State's submittal and developed an evaluation report,[1] which discusses the technical aspects of the revisions in detail.

This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 office and the other addresses listed above.

Subparts that are not being incorporated by reference are (a) Plan Disapproval, (s) Environmental Impact Statement, (t) Disputed Permits or Redesignations, (u) Delegation of Authority, (v) Innovative Technology, and (w) Permit Rescission. These subparts are not required for the State to conduct and implement the PSD permit program and, therefore, need not be submitted as part of the SIP revision.

Additionally, the requirements of 40 CFR 52.21(o) Additional Impacts Analysis have been modified in the State's submittal to require additional reporting concerning industrial and economic development including an analysis of alternate siting for any major stationary source or major modification which would consume more than fifty

[1] EPA Review of Arkansas State Implementation Plan Revisions for Prevention of Significant Deterioration Regulations, July 1981.

(50%) percent of any available annual increment or eighty (80%) percent of the short term increment.

*Action:* EPA has reviewed the submitted material and found it to meet present EPA requirements. Therefore, EPA is today proposing to approve the Arkansas submittal as satisfying the requirements of an acceptable plan for implementing PSD and is soliciting public comment on the regulation.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that this proposed action will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed SIP approval will only approve State actions and will not impose any new regulatory requirements. See 46 FR 8709 (January 27, 1981) for additional justification.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed action is not major because it imposes no new burden on sources since it only approves a State action.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Sections 110 and 161 *et seq.* of the Clean Air Act, as amended (42 U.S.C. 7410 and 7471 *et seq.*))

Dated: July 31, 1981.

Frances E. Phillips,

*Acting Regional Administrator.*

[FR Doc. 81-26401 Filed 9-9-81; 8:45 am]
BILLING CODE 6560-01-M

## 40 CFR Part 52

**[A-7-FRL-1924-4]**

## Approval and Promulgation of the Missouri State Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Missouri Air Conservation Commission granted a variance for the Amoco Oil Company for its refinery in Sugar Creek, Missouri, in order to allow continued operation while installing the proper secondary seals on five storage tanks. The variance will be in effect during the period October 1, 1981, through June 1, 1982, at the end of which Amoco is required to be in full and final compliance with Regulation 10 CSR 10-2.260, Control of Petroleum Liquid Storage, Loading and Transfer for the Kansas City Metropolitan Area.

The EPA proposes to approve the variance granted to Amoco Oil for its Sugar Creek refinery as part of the applicable SIP The variance submittal generally complies with the SIP revision requirements of 40 CFR Part 51.

This proposal is published to notify the public of the receipt of the proposed SIP revision described above and to request comments on the proposal.

**DATES:** Comments must be received before November 9, 1981.

**ADDRESSES:** Comments should be sent to Taun L. Novak, Air, Noise and Radiation Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission and the EPA prepared variance evaluation document are available at the following locations: Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460; Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65102.

**FOR FURTHER INFORMATION CONTACT:** Taun L. Novak at 816 374-3791 (FTS 758-3791).

**SUPPLEMENTARY INFORMATION:** On August 13, 1980, the Missouri Air Conservation Commission approved an amendment to regulation 10 CSR 10-2.260. This amendment called for the installation of secondary seals on all floating roof tanks of greater than 40,000 gallons capacity used for the storage of petroleum liquid having a true vapor pressure of greater than 1.5 pounds per square inch. The effectiye date of the amendment was September 12, 1980, with final compliance to be achieved by not later than October 1, 1981.

The American Oil Company (AMOCO) refinery in Sugar Creek, Missouri, is the only facility believed to be affected by this amendment. EPA approved the regulation on April 3, 1981, at 46 FR 20172.

As of the effective date of the amendment Amoco had 16 floating roof tanks which required the installation of secondary seals. An inspection by Amoco of these 16 tanks revealed that 13 of them would require extensive reworking of the floating roof and/or installation of new primary seals prior to the installation of the required secondary seals. Amoco developed a schedule which will result in the installation of the required seals on 11 tanks by the compliance date of October 1, 1981, and on the remaining five tanks by not later than June 1, 1982. This is eight months later than the final compliance date specified in the regulation. However, the date is seven months prior to the approved attainment date, December 31, 1982.

The Missouri Air Conservation Commission granted a variance for the Sugar Creek plant on February 18, 1981, after having met the public hearing requirements of 40 CFR 51.4(a)(1) and the public notification requirements of 40 CFR 51.4(b). On June 11, 1981, the variance was submitted to EPA along with supporting documentation with the request that the Missouri State Implementation Plan be revised as provided by 40 CFR 51.6. Because of this delay, the variance submittal does not fully comply with the 60-day period for submission to the EPA required by 40 CFR 51.6(d). However, EPA believes the submittal substantially complies with the requirement of § 51.6(d), and that the delay does not affect the approvability of the variance submittal.

The variance would allow the Sugar Creek plant to operate while installing secondary seals on five storage tanks in the ozone nonattainment area of Kansas City. The existing seals on these tanks are old and must be removed before the new ones are installed. Accordingly, each tank must be taken out of service and cleaned. The variance will allow compliance without causing serious disruption in their services.

Because Kansas City has been designated nonattainment for ozone (see 40 CFR 81.326), the requirements of Part D of the Clean Air Act are applicable. Part D of the 1977 Amendments requires that each revised SIP assure incremental improvement of air quality each year prior to the attainment deadline [see sections 172(b)(3) and 171(1)]. These incremental gains are referred to as "reasonable further progress" (RFP). The relaxation of emission limitations in compliance schedules in a nonattainment area must not interfere with the reasonable further progress of that area toward attainment by the required date. However, the EPA approved reasonable further progress demonstration for the Kansas City Metropolitan Area does not rely on reductions to be obtained by the installation of the secondary seals and, therefore, EPA's approval of the plan concerning the requirements of section 172(b)(3) is not affected by the variance.

The variance was issued on February 18, 1981, and will be in effect during the period October 1, 1981, through June 1, 1982, at the end of which Amoco is required to be in full and final compliance with the regulation. Variances extending for a period of more than one year after issuance by the state are required to contain increments of progress [see 40 CFR 51.15(c)]. The

installation of secondary seals on tank numbers 86, 90, 95, 126 and 176 is to be completed in accordance with the prescribed schedule outlined in the order, including increments of progress, achieving full compliance by June 1, 1982. EPA believes this schedule is as expeditious as practicable. EPA believes that the variance will not jeopardize the attainment demonstration set forth by the SIP, nor interfere with the reasonable further progress curve. Therefore, under existing EPA rules, this variance is approvable.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves State actions and imposes no additional substantive requirements which are not currently applicable under State law. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. 46 FR 8709 (January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval under section 110 and 172 within the terms of the January 27 certification. This action only approves state actions. It imposes no new requirements.

This notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended.

Dated: July 29, 1981.

William W. Rice,

*Acting Regional Administrator.*

[FR Doc. 81-26399 Filed 9-9-81; 8:45 am]
BILLING CODE 6560-38-M

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## 40 CFR Part 52

**[Docket No. AH300fVA; A-3-FRL-1924-1]**

## Proposed Revision of Virginia State Implementation Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** On April 13, 1981, the Secretary of Commerce and Resources submitted several minor revisions of the nonattainment portion of the Virgina State Implementation Plan to the Environmental Protection Agency. Included in this submittal was an extended compliance schedule for VI-Tex Packaging Inc. This Notice provides a description of the proposed SIP revision, the results of EPA's review and requests comments on the proposed revisions and EPA's findings.

**DATE:** Comments must be submitted on or before October 13, 1981.

**ADDRESSES:** Copies of the proposed SIP revisions and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Media & Energy Branch (3AH13), Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Ms. Eileen M. Glen.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW (Waterside Mall), Washington, D.C. 20460.

Virginia State Air Pollution Control Board, Ninth Street Office Building, Room 1106, Richmond, Virginia 23219, Attn: Mr. John M. Daniel, Jr.

All comments on the proposed revisions submitted on or before October 13, 1981, will be considered and should be directed to Mr. James E. Sydnor, Chief of the WVA/VA Section at the EPA, Region III address.

**FOR FURTHER INFORMATION CONTACT:** Ms. Eileen M. Glen at the EPA, Region III address or telephone 215/597-8187.

**SUPPLEMENTARY INFORMATION:** The April 13, 1981 submittal consists of several revisions to the Commonwealth's nonattainment plans. The portions of this submittal which correct deficiencies and satisfy the conditions noted in the April 16, 1981 Federal Register (46 FR 22185) are addressed in a separate rulemaking. The balance of the submittal is addressed herein.

The Commonwealth provided proof that, after adequate public notice, public hearings were held regarding the proposed revisions on January 26, 1981 in Richmond and on February 9, 1981 in Lynchburg, Fredericksburg, Virginia Beach and Annandale.

As a result of EPA's preliminary review, we are proposing approval of the revisions listed below except where noted:

*Regulation and Brief Description*

1.02—Terms Defined—modified definitions of external floating roof, internal floating roof and nonmethane

4.56(f)(3)—Miscellaneous wording changes

App. M—Revises the minimum pressure above which the safety valves will release emissions

EPA Evaluation: The definitions listed above have been reviewed by EPA and found to be acceptable as written.

Section 4.56(f)(3) is amended to include vapor balance and top loading vapor recovery methods if truck hatches are to be left open during loading or unloading operations. This change is acceptable to EPA.

Appendix M, Sections III.a.2.ii, III.c.3.ii, III.d.2.ii.*b*, and IV.a.3.iii.*b* are revised to reduce the pressure per square inch (psi) above which pressure relief valves will release emissions to the atmosphere. This is a safety feature and is acceptable to EPA.

Chapter 7 of the Southeastern Virginia nonattainment plan was revised to include an extended compliance schedule for Vi-Tex Packaging Inc. Despite a submittal of supplemental information by the Commonwealth on May 27, 1981, there is still insufficient data for EPA to complete its review.

The Commonwealth or the source must submit information regarding the low-solvent technology plan, i.e., the specific inks to be used to attain the projected emissions reductions before we can complete our review of the proposed schedule.

Conclusion: The public is invited to submit, to the address stated above, comments on the amendments to the regulations as a revision of the Virginia State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendments meet the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Note.—Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action, if promulgated, only approves State actions and imposes no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. Section 605(b), I hereby certify that this

action will not have a significant economic impact on a substantial number of small entities. This action, if promulgated, constitutes a SIP approval under Sections 110 and 172 of the Clean Air Act and only approves State actions. It imposes no new regulatory burden on anyone.

(42 U.S.C. 7401-7642)

Dated: August 11, 1981.

Greene A. Jones,

*Acting Regional Administrator.*

[FR Doc. 81-26402 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-38-M

## 40 CFR Parts 52 and 62

[A-3-FRL-1922-4]

## Proposed Revisions of Delaware Air Quality Plans

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The State of Delaware has submitted changes to its approved Part D (Clean Air Act) State Implementation Plan consisting of amendments to its volatile organic compounds (VOC) regulations for stationary sources, and a request for a delay in the final implementation date for the State's inspection and maintenance (I/M) program. The State has also submitted a State Implementation Plan for lead (Pb) and a Section 111(d) (Clean Air Act) plan for sulfuric acid mist. EPA proposes to approve all of the above-mentioned submittals.

**DATE:** Comments must be submitted on or before October 13, 1981.

**ADDRESS:** Copies of the material submitted by the State of Delaware are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106.

Delaware Department of Natural Resources and Environmental Control, Air Resources Section, Tatnall Building, Capitol Complex, Dover, DE 19901, ATTN: Mr. Robert R. French.

Public Information Reference Unit, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

All comments should be submitted to: Mr. Henry J. Sokolowski, P.E., Chief, DE-MD-DC Metro Section, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19026, ATTN: Revisions to Delaware's Air Quality Plans.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Harold A. Frankford at the above address. Phone: 215/597-8392.

**SUPPLEMENTARY INFORMATION:**

### Introduction

On December 23, 1980 and December 29, 1980, the State of Delaware submitted revisions to its Part D (Clean Air Act) nonattainment plan. It also submitted implementation plans for lead and sulfuric acid mist. The submittals are summarized below.

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### 40 CFR Part 52

On December 23, 1980 and December 29, 1980 the State submitted the following items:

1. *Amendments to Regulations I and XXIV pertaining to control of volatile organic compounds (VOC) emissions.* For States with ozone ($O_3$) nonattainment areas, EPA has stated that the minimum acceptable level of $O_3$ control includes RACT requirements for sources of VOC emissions for which EPA has published a Control Techniques Guideline Document (CTG) by January 1978 and additional reasonably available control technology (RACT) requirements on an annual basis for VOC sources covered by CTGs published by January of the preceding year. (See 44 FR 20372 [April 4, 1979] as supplemented at 44 FR 38583 [July 2, 1979]; 44 FR 50371 [August 28, 1979; 44 FR 53761 [September 17, 1979]; and 44 FR 67182 [November 23, 1979].) Adoption and submittal of additional RACT regulations for sources covered by CTGs published between January 1978 and January 1979 (Group II CTGs) were due July 1, 1980 (44 FR 50371, August 28, 1979). However, because State regulatory processes took longer than anticipated, but in most cases good faith efforts were being made to adopt the necessary regulations, EPA revised the July 1, 1980 deadline to January 1, 1981 (45 FR 78121, November 25, 1980).

EPA published the CTGs in order to assist the States in determining RACT. The CTGs provide information on available air pollution control techniques and provide recommendations on what EPA calls the "presumptive norm" for RACT. Group II CTGs cover the following source categories:

—Factory Surface Coating of Flatwood Paneling.

—Petroleum Refinery Fugitive Emissions (Leaks).

—Pharmaceutical Manufacture.

—Rubber Tire Manufacture.

—Surface Coating of Miscellaneous Metal Parts and Products.

—Graphic Arts (Printing).

—Dry Cleaning Perchloroethylene.

—Gasoline Tank Trucks, Leak Prevention.

—Petroleum Liquid Storage, Floating Roof Tanks.

On December 23, 1980, Delaware submitted to EPA revisions to the SIP consisting of regulations for all of the above-mentioned categories except factory surface coating of flatwood paneling, pharmaceutical manufacture and rubber tire manufacture. On January 8, 1981, the State certified that to the best of its knowledge, there are no sources located in New Castle County that are currently engaged in these three operations.

The regulations as submitted appear to be approvable. However Section 8.1 B.4 of Delaware's SIP provides an exemption from the secondary seal requirement for external floating roof storage tanks, if the tank is used only for the storage of crude oil. Testimony concerning this provision was provided by Getty Refining and Marketing Company at Delaware's June 19, 1980 public hearing. The testimony indicated that the average vapor pressure of all crudes stored by Getty is less than the vapor pressure cutoff limit provided in the regulations. However, Getty has also testified that there exists the possibility of an infrequent shipment of crude which will exceed this cutoff limit. If the crude oil exemption in 8.1 B.4 were not provided, eleven of Getty's crude oil storage tanks would have to be equipped with secondary seals to ensure compliance for this infrequent occurrence. The cost, according to the testimony, may be substantial in comparison to the reduction achieved. The State of Delaware is not satisfied that the subject of controlling VOC emissions from crude oil storage tanks has been examined sufficiently and it intends to request consideration of this subject in greater detail. It is EPA's understanding that Delaware will make its findings available to EPA. In the interim, Delaware has exempted crude oil storage tanks from the secondary seal requirement.

EPA is proposing approval of 8.1 B.4 at this time, however EPA is soliciting comments on this exemption.

2. *A request to delay the final date for implementation of the State's mandatory inspection/maintenance (I/M) program in New Castle County.* The final implementation date is currently scheduled to be January 1, 1982, but the State has requested a seven-month delay of this date so that it

can purchase and install emission testing equipment which is able to record and store data needed to monitor the effectiveness of the State's I/M program. The revised schedule was based on Delaware's projections that the fiscal year 1981 (July, 1981–June, 1982) State budget would be passed by June 30, 1981 and include sufficient I/M funding and that equipment procurement lead time would require one year based on information supplied by equipment manufacturers. The State has also informed EPA that it will use the MOBILE II model to calculate pollutant emissions of motor vehicles, but will not rely on any emission reduction credits for mechanics training.

The State provided certification that a public hearing with respect to the VOC regulations and the implementation plan for lead was held on June 19, 1980; and that a public hearing with respect to the delay for implementing and mandatory I/M program in New Castle County was held on October 31, 1980.

At the time of the submittal, the I/M implementation schedule contained reasonable increments of progress to ensure that Delaware would fully implement its I/M program by August 1, 1982. However, the State legislature failed to provide I/M funding in the Fiscal Year 1982 State budget to purchase test equipment and hire additional personnel to conduct I/M testing. This funding problem has prevented the State from beginning the equipment procurement process by August 1, 1981, as scheduled. The State is currently seeking alternative funding to meet its commitment. EPA believes that the State can fully implement its I/M program by August 1, 1982 provided that the State can secure the alternative funding and initiate the equipment procurement process by October 1, 1981. It is EPA's understanding that the State will revise its implementation schedule to reflect the changes in interim dates caused by the funding difficulty. Therefore, EPA proposes to approve the I/M schedule submitted by the State on December 29, 1980 on the condition that the State, prior to final rulemaking, provide assurances that adequate funding is available to implement the I/M program by the August 1, 1982 deadline.

3. *A State Implementation Plan (SIP) for lead.* This plan was submitted pursuant to the requirements of Subpart E of 40 CFR Part 51, §§ 51.80 through 51.88), promulgated by EPA on October 5, 1978, 43 FR. 46270. The State submitted air quality data showing that national ambient air quality standards (NAAQS) for lead (1.5 ug/m$^3$, averaged over a calendar quarter) was violated one time in New Castle County since January 1, 1974. No violations were recorded in either Kent or Sussex County. Since 1977, the State claims that no violations of the lead standard have been recorded in any area of the State. The SIP submitted by the State, therefore, addresses the maintenance of the lead standard, and concludes that lead concentrations in the atmosphere throughout the State will not increase. This conclusion rests on the assumptions that mobile source emissions will be controlled through the Federal motor vehicle control program and that no new violations of the lead standard have been recorded in any area of the State. The SIP submitted by the State, therefore, addresses the maintenance of the lead standard, and concludes that lead concentrations in the atmosphere throughout the State will not increase. This conclusion rests on the assumptions that mobile source emissions will be controlled through the Federal motor vehicle control program and that no new significant point sources of lead will be constructed. The SIP also includes a requirement for a review of new and modified major sources of lead. EPA has reviewed the State submission and is proposing to approve the plan as submitted.

## PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

### 40 CFR Part 62

Pursuant to Section 111(d) of the Clean Air Act, as amended, EPA promulgated regulations, at 40 CFR Part 60, which require States to submit plans governing control of emissions of "designated pollutants" from "designated facilities." Section 111(d) requires control of existing sources for certain pollutants, other than criteria pollutants, whenever standards of performance have been established under section 111(d) for those pollutants from new sources of the same type. In the case of the sulfuric acid plant emissions, final guideline documents specifying emission guidelines and time for compliance were published in September 1977 for Control of Sulfuric Acid Mist Emissions (EPA–450/2–77–019). State plans for the control of sulfuric acid plants were required by October 31, 1978.

On December 29, 1980, Delaware submitted to EPA Region III a plan to control sulfuric acid mist from existing sources, under section 111(d) of the Clean Air Act. The State has amended Regulation IX of its air pollution control regulations to include an emission limitation of 0.5 lb/ton of acid produced which corresponds to the emission guideline for these sources in 40 CFR 60.33(a). The State has determined that the Allied Chemical Company's sulfuric acid mist plant is the only designated facility subject to the sulfuric acid mist standard in Regulation IX. The State has also determined that Allied Chemical is meeting the emission limitation as determined by EPA Test Method 8. The State provided certification that public hearings were held on October 31, 1980 in accordance with the requirements of 40 CFR 60.23.

This Section 111(d) plan supplements an earlier incomplete version submitted by Delaware on October 5, 1978, and now contains all of the necessary elements required by 40 CFR Part 60. Therefore, EPA proposes to approve the plan.

### Submittal of Public Comments

The public is invited to submit comments on whether the lead SIP, the sulfuric acid mist control plan, the revised I/M schedule, and the control measures for stationary sources of VOC should be approved by the Administrator. All comments should be submitted by October 13, 1981.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action, if promulgated, only approves State actions and imposes no new requirments.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

(42 U.S.C. 7401–642)

Dated: July 9, 1981.

Alvin R. Morris,

*Acting Regional Administrator.*

[FR Doc. 81-25400 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-38-M

## 40 CFR Part 81

[A-5-FRL-1930-8]

### Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Ohio

**AGENCY:** Environmental Protection Agency.

**ACTION:** Extension of Public Comment Period.

**SUMMARY:** On July 27, 1981 (46 FR 38386), the Environmental Protection Agency proposed to approve the total Suspended Particulates and Sulfur Dioxide attainment status designations of certain areas of Lake County, Ohio. In response to a request from the State of Ohio, the public comment period is being extended to September 15, 1981.

**DATE:** Comments must be received on or before September 15, 1981. Please send an original and four copies, if possible.

**ADDRESSES:** Comments should be submitted to: Carl Nash, Acting Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Sharon Kraft at (312) 886-6034.

Dated: August 28, 1981.

Valdas V. Adamkus,

*Acting Regional Administrator.*

[FR Doc. 81-26381 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-38-M

## 40 CFR Part 180

[PP 1E2490/P186; PH-FRL-1931-5]

### Glyphosate; Proposed Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This notice proposes that a tolerance be established for the combined residues of the herbicide glyphosate and its metabolite aminomethylphosphonic acid. This proposal was submitted by the Interregional Research Project No. 4 (IR-4). This amendment will establish a maximum permissible level for the combined residue of the subject herbicide and its metabolite in or on mangoes at 0.2 part per million (ppm).

**DATE:** Written comments must be received on or before October 13, 1981.

**ADDRESS:** Written comments to: Donald Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Donald Stubbs (703-557-7123).

**SUPPLEMENTARY INFORMATION:** The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2490 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Florida and Puerto Rico.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the herbicide glyphosate (*N*-phosphonomethyl glycine) and its metabolite aminomethylphosphonic acid resulting from application of the isopropylamine salt of glyphosate to the raw agricultural commodity mangoes at 0.2 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rabbit acute oral toxicity study with a lethal dose ($LD_{50}$) of 3.8 grams (g)/kilogram (kg) of body weight (bw); a 90-day rat feeding study with a no-observed-effect level (NOEL) of 2,000 ppm; a 90-day dog feeding study with a NOEL of 2,000 ppm; two rabbit teratology studies which were negative at 30 mg/kg of bw/day; a two year dog feeding study with a NOEL of 300 ppm; a three-generation rat reproduction study with a NOEL of 100 ppm; an 18-month mouse feeding study with no carcinogenic potential at 300 ppm (highest level fed); a two-year rat feeding study with a NOEL of 100 ppm (5 mg/kg/day); a hen neurotoxicity study (negative at 7.5 mg/kg); a mouse dominant lethal study (negative at 10 mg/kg, highest dose); a host-mediated mutagenicity assay (negative) and Ames test (negative); and a Rec-assay mutagenicity test (negative).

Additional toxicological studies included a rat teratology study negative at 3,500 mg/kg/day with a fetotoxic NOEL of 1,000 mg/kg/day, a third rabbit teratology study negative for teratogenicity at 350 mg/kg/day with a fetotoxic NOEL of 175 mg/kg/day, and a mouse dominant lethal study negative at 2,000 mg/kg. Data currently lacking include oncogenicity studies in two animal species.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 5 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.05 mg/day of bw/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.2163 mg/day. The current action will not utilize any of the ADI. Published tolerances utilize 7.12 percent of the ADI.

The nature of the residues is adequately understood and an adequate analytical method (gas-liquid chromatography using flame photometric detection) is available for enforcement purposes. Since no feed items are associated with mangoes, there will be no problem of secondary residues in eggs, meat, milk, or poultry. There are presently no actions pending against the continued registration of the chemical. While the oncogenic potential of glyphosate is not fully elucidated, the chronic rat and mouse feeding studies provide assurance that glyphosate has a relatively low oncogenic potential. A further assurance of low risk with glyphosate is that, on a theoretical basis, the theoretical maximum exposure via the diet is about one-fifth of the ADI.

Based on the above information considered by the agency, the tolerance established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, which contains any of the ingredients listed herein may request, on or before October 13, 1981, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number "[PP 1E2490/P186]". All written comments filed in response to this petition will be available for public inspection in the office of Donald Stubbs from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, EPA has determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514; (21 U.S.C. 346a(e)))

Dated: September 2, 1981.

Douglas D. Campt,

*Director, Registration Division, Office of Pesticide Programs.*

## PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.364 be amended by alphabetically inserting the raw agricultural commodity "mangoes" to read as follows:

**§ 180.363 Glyphosate; tolerances for residues.**

* * * * *

| Commodity | Part per million |
|---|---|
| * * * * | |
| Mangoes | 0.2 |
| * * * * * | |

[FR Doc. 81-26372 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-32-M

## GENERAL SERVICES ADMINISTRATION

## 41 CFR Part 101-38

## Gasohol in Federal Motor Vehicles, Guidelines for Purchase and Use

**AGENCY:** General Services Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration (GSA) proposes to amend the Federal Property Management Regulations to issue guidelines for the implementation of Executive Order 12261, January 5, 1981, concerning the purchase and use of gasohol in Federal motor vehicles. These guidelines will assist Executive agencies in developing policies and programs to promote the use of gasohol in their Government-owned and -leased motor vehicle fleet.

**DATE:** Comments must be received by November 9, 1981.

**ADDRESS:** Comments should be addressed to: General Services Administration (TMM), Washington, DC 20406.

**FOR FURTHER INFORMATION CONTACT:** Larry Frisbee, Federal Fleet Management Division (202-275-1021).

**SUPPLEMENTARY INFORMATION:** GSA is issuing this Notice of Proposed Rulemaking to provide interested executive agencies and parties with an opportunity to comment on the Government's guidance and procedures for encouraging the use of gasohol in motor vehicles owned or leased by Executive agencies. The Department of Defense is issuing compatible internal guidance and procedures to its own activities.

The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in cost to consumers or others; or significant advance effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Accordingly, GSA proposes to add the following temporary regulation to the appendix at the end of Subchapter G to read as follows:

Dated: July 29, 1981.

Allan W. Beres,

*Commissioner.*

## SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES APPENDIX—LIST OF TEMPORARY REGULATIONS

**[FPMR Temp. Reg. G- ]**

**Gasohol in Federal Motor Vehicles**

1. *Purpose.* This regulation establishes policy and procedures governing the purchase and use of gasohol by Executive agencies which own or lease motor vehicles. This regulation also provides information to assist agencies in converting their vehicle fleet from the use of unleaded gasoline to gasohol.

2. *Effective date.* This regulation is effective upon publication in the Federal Register.

3. *Expiration date.* This regulation expires September 30, 1982, unless sooner revised or superseded.

4. *Applicability.* The provisions of this regulation apply to Executive agencies as defined in 5 U.S.C. Section 105, except the U.S. Postal Service, the Postal Rate Commission and the Department of Defense (DOD).

5. *Background.*

a. Section 271 of the Energy Security Act (42 U.S.C. 8871) directed the President to issue an Executive order which would require motor vehicles owned or leased by Executive agencies that are capable of operating on gasohol to use gasohol where available at reasonable prices and in reasonable quantities.

b. On January 5, 1981, the President issued Executive Order 12261, Gasohol in Federal Motor Vehicles. The Order set forth specific responsibilities to agencies and also directed DOD and GSA to issue guidelines for the implementation of the provisions of the Order. In response to this direction, DOD is issuing Defense Energy Program Policy Memorandum (DEPPM) 81-9 and GSA is issuing this Notice of Proposed Rulemaking.

6. *Discussion.* Biomass-derived alcohol, when mixed with unleaded gasoline at a rate of one-part alcohol to nine-parts gasoline, will extend available gasoline supplies and reduce the need for imported petroleum. In many areas of the Nation, this alcohol-gasoline mixture, referred to as gasohol, is commercially available now. Civilian agencies, exclusive of the U.S. Postal Service, operate approximately 180,000 vehicles within the United States. Increased use of gasohol by these vehicles will extend our supply of domestic petroleum and reduce our dependence on foreign oil.

7. *Policy.* Gasohol is considered to be interchangeable with unleaded gasoline, both regular and premium, for use in all Federally owned or leased, commercially designed motor vehicles with spark ignition engines, under all climatic conditions in the United States. To the maximum extent feasible, and consistent with overall mission needs and sound motor vehicle management practices, Executive agencies shall:

a. Include gasohol as part of their unleaded gasoline bulk fuel requirements submitted to the Defense Fuel Supply Center, and

b. Give gasohol a product preference over unleaded gasoline when identifying fuel requirements and purchasing fuel for commercially designed motor vehicles. Product preference means that gasohol will be purchased where it is offered at a price equal to or less than unleaded gasoline and will apply in the following procurement situations:

(1) Bulk fuel purchases;

(2) Service station purchases while traveling on official Government business; and

(3) Credit card purchases using the U.S. Government National Credit Card, Standard Form 149. When refueling Federally owned or leased motor vehicles at commercial service stations, the vehicle operator shall compare the price of gasohol with the type of gasoline normally used in the vehicle.

8. *Definitions.*

a. "Gasohol" means a motor fuel which has an octane rating of not less than 87[R+M]/2, and which consists of approximately 90-percent unleaded gasoline and approximately 10-percent anhydrous (199 proof or above) ethyl alcohol derived from biomass.

b. "Biomass" means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues; wood and wood wastes and residues; animal wastes; municipal wastes; and aquatic plants.

9. *Use and availability.* Executive agencies shall designate those vehicles which are capable of using gasohol, consistent with overall mission needs and sound vehicle management practices. Agencies shall also specify conditions governing the use of gasohol, including when gasohol shall be purchased from commercial service stations by individual operators. Periodically, agencies may wish to survey, on a local basis, those service stations which honor the Standard Form 149, to determine those locations where gasohol is available. Vehicle operators should be encouraged to use these stations wherever possible. However, operators should be instructed not to travel additional mileage for the sole purpose of obtaining gasohol.

10. *Agency blending.* When supplies of gasohol are not available, agencies are authorized to purchase anhydrous ethyl alcohol derived from biomass for onsite blending of gasohol, provided that:

a. The combined costs of the alcohol and unleaded gasoline are reasonable;

b. Appropriate blending and storage facilities are available; and

c. Necessary safety measures are taken.

Agencies performing onsite blending may wish to review the current edition of the Purchase Description of unleaded automotive gasohol (PD ME 102), issued by the Department of the Army Mobility Equipment Research and Development Command (MERADCOM), Fort Belvoir, VA 22060.

11. *Reporting requirement.* Executive agencies shall make available to the Department of Energy, upon request, relevant data or information they possess concerning agency gasohol usage.

12. *Exemptions.* Vehicles used in experimental programs to test fuels other than gasohol are exempted from the provisions of the regulation.

13. *Agency comments.* Agency comments regarding clarification of the policy and guidance in this regulation may be sent to the General Services Administration (TMM), Washington, DC 20406, no later than (60 days from the date of final publication in the Federal Register), for consideration and possible incorporation into the permanent regulation.

[FR Doc. 81-26403 Filed 9-9-81; 8:45 am]
BILLING CODE 6820-AM-M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Part 2650

## Alaska Native Claims Settlement; Reduction of Land Overselections

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Intent to Initiate Rulemaking.

**SUMMARY:** Notice is hereby given of the intent to initiate proposed rulemaking that would set forth policies and procedures for reduction of Native land overselections under the Alaska Native Claims Settlement Act of 1971, as amended (43 U.S.C. 1601), to permit valid land selections by the State of Alaska under the Alaska Statehood Act. This notice of intent to initiate rulemaking is required by paragraph 4 of the Stipulation of Settlement dated August 15, 1981, and Judgment and Order of Dismissal dated August 31, 1981, in settlement of *State of Alaska* v. *Ronald Wilson Reagan, et al.* (Civil Action No. A78-291, D. Alaska).

**DATE:** Comments should be submitted by: October 10, 1981.

**ADDRESS:** Comments should be sent to: Director (311), Bureau of Land Management, 18th and C Streets NW., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Beaumont C. McClure, Washington, D.C., (202) 343-6511; or Robert D. Arnold, Anchorage, Alaska, (907) 271-5768.

**SUPPLEMENTARY INFORMATION:** This proposed rulemaking would implement the provisions of paragraph 4 of the Stipulation of Settlement dated August 15, 1981, and Judgment and Order of Dismissal dated August 31, 1981, in settlement of *State of Alaska* v. *Ronald Wilson Reagan, et al.* (Civil Action No. A78-291, D. Alaska). As required by this settlement, this proposed rulemaking would cover the following:

The policy reasons for seeking overselection reduction and for setting an overselection reduction goal; submissions which Native corporations are to make within a specified time regarding total acreage of selections and conveyances, total outstanding selections, total outstanding acreage entitlement, priorities for conveyances among remaining selections and priorities for relinquishment of remaining overselections; an overselection reduction goal and schedule for working toward that goal; and a procedure by which Native corporations will relinquish overselections to reach the overselection reduction goal.

The Stipulation of Settlement calls for publication of a Notice of Proposed Rulemaking within 90 days of the end of the comment period for this Notice of Intent, and a final rulemaking within 90 days after the comment period closes on the Notice of Proposed Rulemaking.

Concurrent with the rulemaking process described above, the State of Alaska is to identify and prioritize its selections in Native overselection areas, and the Department of the Interior is to hold meetings with the affected Native corporations, the State of Alaska, and any other interested persons to discuss the overselection-reduction process.

Delmar D. Vail,

*Acting Associate Director.*

September 3, 1981.

[FR Doc. 81-26312 Filed 9-9-81; 8:45 am]
BILLING CODE 4310-84-M

## DEPARTMENT OF TRANSPORTATION

## Maritime Administration

## 46 CFR Part 251

## Proposed Implementation Procedures for the National Defense Feature Communication Equipment Program

**AGENCY:** Maritime Administration, Transportation.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Maritime Administration proposes to begin implementing the provisions of Pub. L. 96-387, when funds become available, by paying vessel operators for the purchase and installation of communications equipment on existing U.S. flag vessels found to be suitable for use by the United States Government in time of war or national emergencies. This equipment is expected to improve communications between the U.S. Navy and merchant marine.

**DATES:** Comment on the proposed implementation procedures must be received on or before September 30, 1981.

**ADDRESS:** Any person having an interest in this matter may file comments with the Secretary; Maritime Administration, 14th and E Streets NW., Washington, D.C. 20230.

**FOR FURTHER INFORMATION CONTACT:** Mr. James C. McCoy, Jr., Manager Electronic System, Office of Ship Construction (Code M-721) Maritime Administration, 14th and E Streets NW., Washington, D.C. 20230 (202) 377-4522.

**SUPPLEMENTARY INFORMATION:**

Background:

Title V of the Merchant Marine Act of 1936 (the Act) has provided for the installation of National Defense Features (NDF) during construction/reconstruction of merchant vessels receiving Construction-Differential

Subsidy. Section 509 of the Act authorizes NDF installation during the construction of any U.S. built vessel certified by the Department of the Navy to be useful to the United States Government in time of war or national emergency, contingent upon the owner's approval. Public Law 96-387 (October 7, 1980), amended the Act by authorizing the Secretary of Commerce to construct, purchase, lease, acquire, store, maintain, sell, or otherwise dispose of NDF intended for installation on vessels likely to be involved in national security support operations. Pursuant to the Maritime Act of 1981, Pub. L. 97-31 (August 6, 1981), the act now authorizes the Secretary of Transportation to install or remove such NDF on any of the following vessels:

(1) Vessels in the National Defense Reserve Fleet,

(2) Vessels requisitioned, purchased, or chartered under Section 902 of the Act,

(3) Vessels which serve as security for the guarantee of obligations under Title XI ship mortgage guarantee programs,

(4) Any vessel which is the subject of an agreement between the owner of such vessel and the Secretary of Transportation.

Thus, authority is vested in the Secretary of Transportation to enter into a contract with a U.S.-flag vessel operator to pay for the fitting or retrofitting of NDF on ships under construction or existing ships in the U.S.-flag fleet after the Secretary of the Navy approves such plans, specifications, or proposals.

The Secretary of the Navy, by letter dated December 22, 1980, to the former Assistant Secretary of Commerce for Maritime Affairs, has determined that a priority defense feature is equipment necessary to permit real time communications among naval vessels, merchant vessels, and communication facilities and has suggested that such equipment should be on all U.S.-flag vessels likely to be involved in national security support operations in the event of a war or national emergency. For practical purposes, this would include all U.S.-flag vessels except those to be retained in essential domestic trade in wartime.

In recent years a gap has developed between the U.S. Navy and merchant ship communications. In the past, a limited communications capability existed between naval vessels and merchant vessels using manual radiotelegraphy on the Medium Frequency (MF) band around 500 kHz. Recently, however, the Navy has moved away from manual radiotelegraphy to higher capacity communications systems. The Navy-merchant ship communications problem has been further increased by the rise in the speed of merchant ships and the resulting increase in the number of ships that would be expected to sail independently in wartime.

This national defense feature communications program is a first step that is intended to provide the necessary equipment to facilities long-distance communications between the U.S. Navy and U.S. merchant ships.

Implementation:

As funds become available, the Maritime Administration proposes to pay vessel operators for the purchase and installation of NDF communications equipment on U.S.-flag vessels likely to be involved in national security support operations. The NDF equipment consists of the following:

(1) High Frequency Transmitter.

(2) High Frequency Receivers.

(1) Radioteletype System with Automatic Error Correction.

(1) Maritime Digital Selective Calling System.

(1) Marisat Terminal.

Specifications for this equipment are contained in Appendix A. It is not intended that NDF communications equipment duplicate existing shipboard equipment having the same capabilities. Therefore, this program will not provide reimbursement for any of the above equipment that is already installed on a vessel.

Normally NDF equipment is restricted from commercial use. However, as a defense feature, the communications equipment must be ready for use at all times. Therefore, in order to ensure the operability of the equipment in emergencies and to assure the familiarity of users, continuous use of NDF communications equipment in routine commercial operations will be permitted and encouraged. Accordingly, maintenance and repair will be to the owner's account.

When this proposal is implemented, any owner of a U.S. flag vessel over 1000 gross tons may apply to the Maritime Administration for reimbursement of the costs involved in purchasing and installing NDF communications equipment. We propose to process applications in vessel types according to the following priority:

(1) U.S. built/U.S. flag barge carriers.

(2) U.S. built/U.S. flag product tankers.

(3) U.S. built/U.S. flag self-sustaining dry cargo ships.

(4) U.S. built/U.S. flag roll-on/roll-off ships.

(5) U.S. built/U.S. flag container ships.

(6) U.S. built/U.S. flag dry bulk cargo ships.

(7) U.S. flag barge carriers.

(8) U.S. flag product tankers.

(9) U.S. flag self-sustaining dry bulk cargo ships.

(10) U.S. flag roll-on/roll-off ships.

(11) U.S. flag container ships.

(12) U.S. flag dry bulk cargo ships.

Owners shall be responsible for making their own arrangements for purchasing and installation, and are encouraged to negotiate on a fleet basis where possible to minimize cost. Where appropriate, small fleet operators are encouraged to cooperate in multiple-purchase of equipment to obtain the best cost advantage of fleet purchase. Preference will be given to lower cost installations meeting all the technical requirements of Appendix A.

Applications shall include for each vessel: the vessel's name, existing communications equipment, proposed NDF communications equipment to be installed, and purchase and installation quotations from suppliers. The Buy American provisions of Section 505 of the Merchant Marine Act of 1936, as amended, shall apply to this program. The proposed application format is shown in Appendix B. The Maritime Administration will review applications to select the ships for implementation; to assure the proper equipment will be provided; and to determine that the cost is fair and reasonable.

Each proposed installation will be certified by the Maritime Administration; then payments will be made in accordance with the terms of the contract between the Owner and Maritime Administration. Participants in this program shall not remove the NDF communications equipment without prior Maritime Administration approval.

If carriage of any of this NDF equipment becomes a regulatory body requirement, appropriate reimbursement to the Government, allowing for depreciation, will be required.

The Maritime Administration will develop guidelines to be made available to ship operators and telecommunications service suppliers in planning for the use of NDF communications equipment and safety functions. These guidelines will be published separately.

Robert J. Patton, Jr.,
*Secretary, Maritime Administration.*

## Appendix A—Specifications for National Defense Feature Communication Equipment

1. *General Requirements.* The installation of all equipment including antennas, and final checks and

adjustments, shall be made by an authorized representative of the manufacturer of the particular equipment involved.

The radio manufacturer shall provide radio noise suppression filters in the radio room on the input supply feeders to electronic equipment. The filters shall be designed to attenuate radiated and conducted noise frequencies not less than 60 decibels over the frequency range of 100 to 30,000 kHz. Between frequencies of 15 to 150 kHz, the noise levels shall be attenuated sufficiently to preclude interference with satisfactory reception when radio receivers are tuned to maximum sensitivity.

Electronic equipment energized from an AC power source shall be so designed that input is accomplished through an isolation transformer which may be either a step-up, step-down, or one-to-one ratio type, incorporated as an integral part of the equipment, and shall be shielded to suppress interference. Voltage suppressors shall be installed in the equipment to protect from transient voltage spikes of the type encountered in shipboard power distribution systems.

2. *Radio Equipment.* (a) List of Principal Components. The National Defense Feature (NDF) communications equipment shall consist of the following:

(1) High Frequency Transmitter.

(2) High Frequency Receivers.

(1) Radioteletype System with Automatic Error Correction.

(1) Maritime Digital Selective Calling System.

(1) Marisat Terminal.

(b) Specifications. The transmitter and receivers shall meet the following minimum specifications:

Transmitter:

Output power—1,000 watts.

Frequency range—2–30 MHz.

Frequency control—synthesized.

Emission—A1, A3A, A3H, A3J, F1.

Receivers:

Frequency range—2–30 MHz.

Frequency control—synthesized.

Emission—A1, A3A, A3H, A3J, F1.

Radioteletype:

Modes—ARQ, FEC, SEL/FEC.

Marisat: As approved by COMSAT General Corporation.

(c) Installation. It is not intended that NDE communication equipment duplicate existing shipboard equipment having the same capabilities, therefore if the above described equipment is already installed on the ship it shall not be installed as part of this package.

The NDF communications equipment shall be located in the radio room. Voice remote extension facilities for both high frequency and Marisat equipment shall be located in the wheelhouse. The Marisat installation may include a Ship Priority Indicator on the bridge.

**Appendix B—Format for Application to Participate in the Maritime Administration National Defense Feature Communication Equipment Program**

United States Department of Transportation
Maritime Administration
Division of Engineering (721)
Room 4523—Main Commerce Building
Washington, D.C. 20230
Attention:
Director,
Office of Ship Construction
Subject:
National Defense Feature,
Communications Equipment Installation
(Name of Vessel Owner)
(Number and Type of Vessels)
Application for Reimbursement of Costs
References:
(a) (As appropriate)
(b)
Enclosures:
(1) (Separate enclosure for each vessel)
(2)
Gentlemen:

*General:*

Application is hereby made for the reimbursement of costs for the purchase and installation of certain national defense communication equipment on *xx* vessels. The total amount of this reimbursement request is $*xxxxx*.

*Purchase and Installation:*

(In this paragraph give a brief description of the overall purchase and installation arrangements.)

*Vessel Equipment Details:*

Specific details for each vessel included in this Application are provided in Enclosures (*x*) through (*x*).

*Name of Applicant:*

(Provide name and address of applicant, and a contact person with telephone number)
(End of sample format)

*Enclosure (x)—Equipment Details*

Name of Vessel _____
Type of Vessel _____
Communications Equipment Installed _____
(Quantity—Manufacturer—Model). ____
Communications Equipment to be Added _____
(Quantity—Manufascturer—Model) ____
Purchase and Installation Quotations (Include Contractor's name, address and telephone number) _____
Former ship name, if applicable _____
Radio Call sign _____
Where Constructed _____
Date Delivered _____
MarAd Design Designation, if applicable _____
Principal characteristics _____
Planned Trade Route and Cargo _____

[FR Doc. 81-26343 Filed 9-9-81; 8:45 am]
BILLING CODE 3510-15-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[BC Docket No. 81-614; RM-3905]**

### FM Broadcast Station in Charleston, W. Va., Proposed Changes in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes to assign FM Channel 265A to Charleston, West Virginia, in response to a petition filed by Communicast, Inc. The assignment could provide Charleston with a fifth local commercial service.

**DATES:** Comments must be filed on or before November 2, 1981, and reply comments must be filed on or before November 23, 1981.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

**SUPPLEMENTARY INFROMATION:**

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Charleston, West Virginia), BC Docket No. 81-614, RM-3905.

Adopted: August 25, 1981.

Released: September 1, 1981.

1. A petition for rule making [1] was filed by Communicast, Inc. ("petitioner"), requesting the assignment of Channel 265A to Charleston, West Virginia, as that community's fifth commercial FM assignment. Petitioner states that it will apply for the channel if assigned.[2] No responses to the petition have been received.

2. Charleston (population 71,505),[3] the capital of West Virginia, is located in Kanawha County (population 229,515) in the west-central portion of the State. It is served locally by five full-time AM stations (WCAW, WCHS, WKAZ, WTIP, WXIT), four commercial FM stations (WVAK, Channel 260; WBES, Channel 241; WQBE, Channel 248; WTIO, Channel 274) and noncommercial educational Station WVPN.

[1] Public Notice of the petition was given on June 4, 1981, Report No. 1290.

[2] Petitioner notes that "Communicast, Inc. has not been formally incorporated. However, the formalities will be completed, and the corporation will come into legal existence, if the requested FM channel is alloted and an application is prepared for a construction permit."

[3] Population figures are extracted from the 1970 U.S. Census.

3. Petitioner indicates that it is minority controlled (see fn. 2), and wishes to primarily serve that segment of the community, which, it states, constituted over 10 percent of the population in 1970 and now comprises 12,000 persons. It also intends to serve the community at large with an additional FM broadcast service.

4. The assignment of Channel 265A to Charleston would result in intermixing a Class A channel in a community dominated by Class B stations. Petitioner has indicated that an effort was made to find a Class B channel for assignment to Charleston, but that only Channel 265A is available. The Commission has a policy of permitting such intermixture where no other Class B channel is available for assignment and where, as here, the petitioner is willing to apply for the Class A channel in spite of any unfavorable competitive situation which may result. *See, Yakima, Washington,* 42 FCC 2d 548, 550 (1973); *Key West, Florida,* 45 FCC 2d 142, 145 (1974).

5. It appears that the assignment of Channel 265A to Charleston will cause preclusion to occur only on the co-channel within 65 miles. Since this proposal seeks a fifth commercial assignment to a community of less than 100,000, preclusion data is important to justify an exception to our population criteria which places a limit of four channels to such a community. Petitioner states that only South Charleston is of significant size in the precluded area and already has an AM station. It also notes that Channel 265A could be used at South Charleston under the 10 mile rule, § 73.203(b), if assigned to Charleston.

6. Since the proposed assignment is within 400 kilometers (250 miles) of the U.S.-Canada border, Canadian concurrence must be obtained.

7. In order to give further consideration to the request, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Charleston, W.Va. | 241, 248, 260, and 274. | 241, 248, 260, 265A, and 274. |

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before November 2, 1981, and reply comments on or before November 23, 1981.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Martin Blumenthal,

*Acting Chief, Policy and Rules Division, Broadcast Bureau.*

Appendix

[BC Docket No. 81-614, RM-3905]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedure.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 81-26348 Filed 9-9-81; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[BC Docket No. 81-613; RM-3901]**

## FM Broadcast Station in Greenville, Ala.; Proposed Changes in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes the assignment of FM Channel 232A to Greenville, Alabama, in response to a petition filed by Greenville Broadcasting Company. If this channel is assigned, it

could provide Greenville with its second FM broadcast station.

**DATES:** Comments must be filed on or before November 2, 1981, and reply comments must be filed on or before November 23, 1981.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

**SUPPLEMENTARY INFORMATION:**

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Greenville, Alabama), BC Docket No. 81-613, RM-3901.

Adopted: August 25, 1981.

Released: August 31, 1981.

1. *Petitioner, proposal, comments.* (a) A petition for rule making [1] was filed by Greenville Broadcasting Company ("petitioner") proposing the assignment of FM Channel 232A to Greenville, Alabama. No comments opposing the assignment were received.

(b) The proposed channel can be assigned to Greenville with a site restriction of approximately 6.1 kilometers (3.8 miles) north to comply with the minimum distance separation requirements.

(c) Petitioner has stated it will apply for the channel, if assigned.

2. *Demographic Data.* (a) *Location.* Greenville, seat of Butler County, is located approximately 64 kilometers (40 miles) south-southwest of Montgomery, Alabama.

(b) *Population.* Greenville—8,033 [2] Butler County—22,007

(c) *Present aural service.* Greenville is currently served by daytime only AM Station WGYV and by FM Station WKXN (Channel 240A).

3. *Economic Consideration.* According to the petitioner, Greenville is "the hub of commercial and social activity for a five county area." The community is also an important regional transportation center.

4. *Preclusion Considerations.* The assignment of Channel 232A to Greenville would cause preclusion on the co-channel within 65 miles. Petitioner states there are no cities of 2,500 population, or more, in the precluded area.

5. In light of the above, the Commission feels that it is in the public interest to propose amending § 73.202(b) of the Commission's rules, FM Table of Assignments, with regard to the following community:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Greenville, Ala | 240A | 232A, 240A |

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7 Interested parties may file comments on or before November 2, 1981, and reply comments on or before November 23, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Martin Blumenthal,

*Acting Chief, Policy and Rules Division, Broadcast Bureau.*

Appendix

[BC Docket No. 81-613, RM-3901]

1. Puruant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C

[FR Doc. 81-26347 filed 9-9-81; 8:45 am]

BILLING CODE 6712-01-M

[1] *Public Notice* of petition was given on June 4, 1981, Report No. 1290.

[2] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 81-615; RM-3897]

## FM Broadcast Station in Thoreau, N. Mex., Proposed Changes in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes the assignment of FM Channel 260 to Thoreau, New Mexico, as that community's first FM assignment in response to a petition filed by Hal, Inc.

**DATES:** Comments must be filed on or before November 2, 1981, and reply comments must be filed on or before November 23, 1981.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

**SUPPLEMENTARY INFORMATION:**

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Thoreau, New Mexico), BC Docket No. 81-615, RM-3897

Adopted: August 25, 1981.

Released: September 1, 1981.

1. *Petitioner, Proposal, Comments:* (a) A petition for rulemaking [1] was filed by Hal, Inc. ("petitioner") proposing the assignment of FM Channel 260 to Thoreau, New Mexico, as that community's first FM assignment. No comments opposing this assignment have been received.

(b) The channel may be assigned to Thoreau in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data*—(a) *Location.* Thoreau is an unincorporated community in McKinley County, approximately 145 kilometers (90 miles) northwest of Albuquerque, New Mexico.

(b) *Population.* Thoreau—950;[2] McKinley County—54,950.[3]

(c) *Present Aural Service.* Thoreau currently has no local broadcast service.

3. *Economic Considerations.* According to the petitioner, "with the expansion of uranium mining and milling operations in the area, Thoreau is expected to become a major residential and commercial community."

4. *Preclusion Considerations.* Preclusion will be caused on Channel 257 within 65 miles, Channel 259 within 150 miles, Channel 260 within 180 miles, Channel 261A within 105 miles and Channel 263 within 65 miles. Petitioner lists five communities of over 1,000 population in this area that have no present aural service.[4] Petitioner should list alternative channels available to these communities.

5. It is not usually Commission policy to assign Class C channels to communities as small as Thoreau. Petitioner states that the assignment would provide first FM service to 1457 square miles and second FM service to 240 square miles. Petitioner should estimate the population in the first and second service areas to bolster its case.

6. In view of the foregoing, the Commission finds it in the public interest to propose the following amendment to the FM Table of Assignments, § 73.202(b) of the Commission's rules:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Thoreau, N. Mex. | | 260 |

7. The Commission's authority to institute rules making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before November 2, 1981, and reply comments on or before November 23, 1981.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Martin Blumenthal,

*Acting Chief, Policy and Rules Division, Broadcast Bureau.*

Appendix

[BC Docket No. 81-615, RM-3897]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent to a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or

[1] Public Notice of the petition was given on May 20, 1981, Report No. 1287.

[2] Figure provided by petitioner.

[3] Population figure was taken from 1980 U.S. Census.

[4] Eagar, Snowflake, and Springerville, Arizona, and Antonito, Colorado, and Milan, New Mexico.

persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Steet NW., Washington, D.C.

[FR Doc. 81-26348 Filed 9-9-81; 8:45 am]

BILLING CODE 6712-01-M

## 47 CFR Part 73

**[BC Docket No. 81-616; RM-3836]**

## FM Broadcast Station in West Liberty and Flemingsburg, Kentucky; Proposed Changes in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes the reassignment of FM Channel 292A from Flemingsburg, Kentucky, to West Liberty, Kentucky, at the request of Langley Franklin. This proposed assignment could provide the community with a first FM broadcast service.

**DATES:** Comments must be filed on or before November 2, 1981, and reply comments must be filed on or before November 23, 1981.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

**SUPPLEMENTARY INFORMATION:**

Adopted: August 25, 1981.

Released: September 2, 1981.

By the Chief, Policy and Rules Division:

In the matter of an amendment of § 73.202(b), table of assignments, FM broadcast stations, (West Liberty and Flemingsburg, Kentucky); BC Docket No. 81-616, RM-3836; notice of proposed rule making.

1. A petition for rule making [1] was filed by Langley Franklin ("petitioner") proposing the reassignment of FM Channel 292A from Flemingsburg, Kentucky to West Liberty, Kentucky. No comments opposing the assignment have been received. The proposed channel can be assigned to West Liberty in compliance with the minimum distance separation requirements.

2. West Liberty (population 1,381,[2] the seat of Morgan County (population 12,103), is located approximately 112 kilometers (70 miles) east of Lexington, Kentucky. Flemingsburg (population 2,835), seat of Fleming County (12,323), is located approximately 80 kilometers (50 miles) northeast of Lexington. West Liberty is served by full-time AM Station WLKS. Flemingsburg was recently authorized an AM station.

3. According to petitioner, the original assignment of Channel 292A to Flemingsburg, in 1977, was based on the following factors: (1) Flemingsburg has no local aural service and (2) a new FM channel would bring first FM service to 1,506 persons and a second FM service to 14,200 persons. However, since Channel 292A has remained vacant for approximately three and one-half years, petitioner believes that the Commission should reconsider this allocation so that it can be put to use elsewhere.

4. The proposed assignment would provide a first local FM service and a first local aural nighttime service to about 75% of Morgan County's area and population. We agree with petitioner that the channel should be assigned where it will be put to use with respect to these two communities.

5. Petitioner states that, if the requested assignment is approved, he will apply to construct an FM broadcast station.

6. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules with regard to the following community.

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Flemingsburg, Ky | 292A | |
| West Liberty, Ky | | 292A |

7 The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before November 2, 1981, and reply comments on or before November 23, 1981.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 Fed. Reg. 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Martin Blumenthal,

*Acting Chief, Policy and Rules Division, Broadcast Bureau.*

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

[1] Public Notice of the petition was given on February 10, 1981, Report No. 1269.

[2] Population data are taken drom the 1980 U.S. Census unless otherwise indicated.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[FR Doc. 81-26345 Filed 9-9-81; 8:45 am]
BILLING CODE 6712-01-M

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Part 571

### Denial of Petition for Rulemaking

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This notice denies a petition for rulemaking submitted by the Physicians for Automotive Safety and the Action for Child Transportation Safety to amend the agency's school bus seating standard. The petitioners would require higher seat backs and seat belts in all school buses. The agency concludes for the reasons set forth below that these additional safety features are not required at this time.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Williams, Crashworthiness Division, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2264).

**SUPPLEMENTARY INFORMATION:** The Physicians for Automotive Safety (PAS) and Action for Child Transportation Safety (ACTS) have petitioned the agency for an amendment to the agency's school bus seating standard, Standard No. 222, *School Bus Passenger Seating and Crash Protection.* Their petition requests the agency to mandate a seat back height of at least 24 inches above the seating reference point (SRP) and to require seat belts. Currently, seat back height is 20 inches, and seat belts are required only in buses with gross vehicle weight ratings (GVWR) of 10,000 pounds or less. For the reasons set forth below, the agency denies their petition.

The agency conducted an extensive rulemaking process in the mid-1970's in implementing the current school bus seating standard. Initially, the agency proposed a much higher seat back than currently required in school buses and proposed that seat belts be required in all school buses. In comments on the agency's proposal, attention was drawn to the problems that result from the use of high seat backs and seat belts in all school buses. High seat backs present a discipline problem in school buses. The driver who is frequently the only monitor on a school bus cannot see the children over the seat backs. For this reason a number of school systems objected to a greatly increased seat back height.

The installation of seat belts in all school buses posed a number of problems for the users of school vehicles. School buses are frequently used to transport both elementary students and high school students, with the younger students sitting three to the seat while the older students sit two to the seat. In fact, many school districts establish schedules to insure that their buses can be used to transport both elementary and high school students on different shifts. Thus, a bus would have to be equipped with three sets of seat belts per seat to provide one belt for each occupant when the bus is used for younger students. Even for elementary students, it would be difficult, if not impossible to belt three occupants into one seat. When high school students were transported, in order for them to use the seat belts, they would be required to use portions of two different belt systems on the seat and sit on the remainder of the unused belts. This would pose a comfort problem. Further, to insure use of seat belts, a school must provide a monitor to ensure that the belts are worn. This increases school personnel costs or puts an additional burden on the driver to check for seat belt use.

The agency determined that a moderate approach to seat back height and seat belts would be the most effective means for the prevention of school bus injuries and fatalities. The agency conducted tests at various seat back heights and determined thaat a 20-inch seat back height measured from the SRP provided adequate protection without obscuring the driver's visibility of the children. The results of agency testing are in the docket established earlier for this rulemaking action.

With respect to seat belts, the agency concluded after examining the arguments for and against seat belts that adequate passenger protection could be provided by compartmentalizing the occupants between well padded and sturdy seats. Through compartmentalization, children are protected whether or not seat belts are provided or worn. This reduces the burden upon schools to monitor and enforce seat belt usage and increases the comfort of the seat to the occupants.

NHTSA did require small school buses to be equipped with seat belts. Small buses are not required to comply with the limited seat spacing requirements in the standard, and therefore, compartmentalization is not as effective for them. Also, small buses have higher impact forces than larger buses during accidents. For both of these reasons, the agency decided to require these buses to have seat belts.

It is important to remember that the NHTSA safety standard provides the minimum safety requirements applicable to all school buses. Nothing prohibits a State or a local jurisdiction from requiring somewhat different levels of safety in buses which the State purchases for its own use. For example, New York has determined that a higher seat back is preferable for its jurisdiction and has required a higher seat back than that established in the Federal standard for its buses. Similarly, a State or a local jurisdiction could require seat belts for their own buses if they concluded that seat belts would be

preferable in light of the specific problems in their jurisdictions. Accordingly, the Federal standard establishes only the minimum and States are permitted to specify more stringent requirements for their vehicles if they find it desirable.

Finally, it is necessary to put the issue of increased school bus safety in the proper perspective. Typically, fewer than 20 passengers of school buses are killed annually in school bus accidents. PAS points to a particular accident to justify this rulemaking petition. However, in that accident, 47 injuries were sustained and none was serious. Given the existing safety of school buses, further expense and Federal regulations are not warranted at this time. Accordingly, the agency has determined that the proposals made by PAS and ACTS are not necessary and denies their petition. The agency continues to monitor the school bus accidents and will propose additional safety standards if conditions warrant.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1391, 1407); delegation of authority at 49 CFR 1.50)

Issued on August 31, 1981.

Diane K. Steed,

*Acting Administrator.*

[FR Doc. 81-26209 Filed 9-9-81; 8:45 am]

BILLING CODE 4910-59-M

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 23

## Export of Bobcat, Lynx, River Otter, Alaskan Gray Wolf, Alaskan Brown Bear, American Alligator and American Ginseng Taken in 1981-82 Season

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed findings and rule.

**SUMMARY:** The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a treaty regulating the international shipment of certain wildlife and plant species. Exports of wildlife or plants listed in Appendix II of CITES may occur if a Scientific Authority has advised a permit-issuing Management Authority that such exports will not be detrimental to the survival of the species, and if a Management Authority is satisfied that the wildlife or plants were not obtained in violation of laws for its protection.

This notice announces proposed findings by the Scientific and Management Authorities for the United States concerning the export of certain Appendix II species native to this country. Such findings are made annually on a state-by-state basis. The Service requests information and comments concerning these findings before making final determinations on the export of specimens taken in the 1981-82 harvest season.

**DATE:** The Service will consider information and comments received by September 25, 1981, in making the final determinations.

**ADDRESS:** Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, room 536, 1717 H Street NW., Washington, D.C., or at the Federal Wildlife Permit Office, room 621, 1000 N. Glebe Road, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:**

*Scientific Authority Findings*—Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653-5948.

*Management Authority Findings*—Mr. S. Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235-2418.

*Export Permits*—Mr. Robert J. Batky, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235-1903.

**SUPPLEMENTARY INFORMATION:** This is the second of three notices concerning the Service's findings on export of bobcat, lynx, river otter, Alaskan gray wolf, Alaskan brown bear, American alligator, and American ginseng taken in the 1981-82 harvest season. The first notice (46 FR 28192; May 26, 1981) announced the Service's intention to develop findings on export of specimens of these species, and invited comment on the criteria that it proposed to use in making such findings. In the present notice, the Service announces its preliminary findings. These are based on criteria described in the May 26, 1981, notice.

### Scientific Authority Advice

The Service received comments from several state conservation agencies on the proposed criteria for Scientific Authority advice on the export of bobcats, lynx, and river otter. These agencies remarked that it is inappropriate to require an estimate of the state's populations of these species as a condition of export approval because such estimates are difficult to make and because they do not provide information useful to the state in managing these species.

The requirement for population estimates was established by the United States Court of Appeals for the District of Columbia Circuit. The court's decision, as described in the notice of May 26, 1981, applies to Scientific Authority advice on the export of bobcats taken in the 1981-82 season. The Service shares the concern of state agencies about the need for (and value of) population estimates; although it has considered population estimates in developing Scientific Authority advice on the export of other species, it has not considered such estimates to be essential for that advice.

The bobcat, lynx, river otter, and American alligator were listed in Appendix II for two reasons: Because the CITES party countries decided that they were potentially threatened with extinction unless international trade were controlled and because the parties agreed that trade in them should be regulated in order to effectively control trade in other listed species of cats, otters, or crocodilians, respectively. In developing Scientific Authority advice on whether export of these four species will not be detrimental, the Service is examining both the status of the species in question and the impact of trade in them on the effectiveness of CITES in controlling trade in other related species.

The Service has received no information that export of these species has reduced the effectiveness of CITES in controlling trade in other listed species. Similarly, the Service has received no evidence that export of Alaskan gray wolf or Alaskan brown bear has reduced the effectiveness of CITES in controlling trade in other listed wolves or bears. The Alaskan populations of wolf and brown/grizzly bear are listed in Appendix II only to enable the parties to effectively control trade in other listed populations. Accordingly, the Service has made a preliminary determination that export of bobcat, lynx, river otter, American alligator, Alaskan gray wolf, and Alaskan brown bear will not reduce the effectiveness of CITES in controlling trade in other listed species. This determination is reinforced by the Service's requirement that all pelts or hides of the species in question must have state tags, as described below. The Service's notice of proposed findings for the previous harvest season provides further discussion of the grounds for this

determination (45 FR 64520; September 29, 1980).

State conservation agencies have provided current information to the Service about biological status, harvest, and management and research programs for bobcat, lynx, river otter, American alligator, and American ginseng. The Service has evaluated this information in terms of whether export will not be detrimental to the survival of the species in question, using criteria described in the notice of May 26, 1981. Information from the states and records of the Service's evaluation of it are available for public inspection at the Office of the Scientific Authority.

Management Authority Findings

Several state conservation agencies commented that the Service should combine its requests to them for Scientific Authority and Management Authority information. The Service agrees, and will do so in the future. Aside from this comment, the Service received no suggestions concerning the proposed criteria for Management Authority findings on the export of species addressed in this notice.

The Management Authority must be satisfied that specimens were not obtained in violation of state or Federal law, in order to allow export. Evidence of legal taking for bobcat, lynx, river otter, Alaskan gray wolf, Alaskan brown bear, and American alligator is provided by state tagging systems. For the 1981–82 season, the Service has urged the use of locking globe-headed metal tags. The Service has arranged for the manufacturing of such tags for the majority of states. Other states already use similar tags. Those few states now able to use only substandard tags may use them for export this season, but must use fully acceptable tags next season.

Last year, the Service stated that the Management Authority would approve export of artificially propagated ginseng only from the states approved for export of wild-collected ginseng, because they had the programs necessary to document the source of the plants. The Service plans to continue this practice, but it will also approve the export of artificially propagated ginseng from other states if those states can provide similar documentation to minimize the risk that wild-collected plants are exported as cultivated.

Information from the states and records of the Service's evaluation of it in terms of Management Authority criteria are available for public inspection at the Federal Wildlife Permit Office.

Proposed Export Approval

The Service proposes to approve exports of these Appendix II species harvested during the 1981–82 season in the following states, on the grounds that both Scientific Authority and Management Authority criteria have been met:

*Bobcat*—Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New York, Oklahoma, Oregon, South Carolina, Utah, Vermont, Virginia, West Virginia, Wyoming, and Klamath Tribe.

*Lynx*—Alaska, Minnesota, and Montana.

*River otter*—Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, Oregon, South Carolina, Vermont, and Virginia.

*American alligator*—Florida and Louisiana.

*American ginseng*—Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Missouri, North Carolina, Ohio, Tennessee, Vermont (artificially propagated ginseng only), Virginia, West Virginia, and Wisconsin.

The Service also proposes *not* to grant general approval for exports of these species harvested in the following states, which have received export approval in the past. After the name of each state, the letters SA or MA indicate that criteria of the Scientific Authority or Management Authority, respectively, are not met.

*Bobcat*—California (SA), Maine (MA), Nevada (MA), New Mexico (MA), North Carolina (MA), North Dakota (SA), Tennessee (MA), Texas (MA), Washington (MA), Wisconsin (MA), and Navajo Nation (SA).

*Lynx*—Idaho (SA) and Washington (MA).

*River otter*—Maine (MA), North Carolina (MA), and Wisconsin (MA).

*Alaskan gray wolf*—Alaska (MA).

*Alaskan brown/grizzly bear*—Alaska (MA).

*American ginseng*—Minnesota (SA), and New York (SA) and (MA). In most of these cases, the Service proposes not to approve export of wildlife species because the state has not yet provided current biological data (SA) or samples of tags it will use on pelts (MA). However, in the case of North Dakota, the Service believes that the condition of bobcat populations is such that export of the harvest allowed by the state management program could be detrimental to the survival of the species in the state.

For ginseng, the Service proposes not to approve export from Minnesota because the state has not yet provided information about either the population status or management of the species. The Service proposes not to approve export of ginseng harvested in New York because the state is not yet implementing a management program and because information supplied on population status is insufficient to show that export will not be detrimental to the survival of the species in the state.

For all other states not addressed above, either the taking of these species is not allowed by the state, the species do not occur in the state, or the state did not provide the Service with information on which to base Scientific Authority and Managment Authority findings. The Service proposes not to grant general approval for export of these species from such states.

Comments Solicited

The Service requests comments and current information on the species addressed in this notice. Final findings will take into consideration the comments and any additional information received, and such consideration might lead to final findings that differ from this proposal.

The period for comment on this proposal is limited to 15 days because a longer period would be impracticable and contrary to the public interest (43 CFR 14.7). These findings are most valuable for conservation of the species if they are made before the harvest season begin.

This proposal is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. et seq., 87 Stat. 884 as amended), and was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority, telephone (202) 653–5948.

Note.—The Department has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601).

Dated: August 14, 1981.

G. Ray Arnett,

*Assistant Secretary for Fish and Wildlife and Parks.*

Accordingly, the Service proposes to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

## PART 23—ENDANGERED SPECIES CONVENTION

### Subpart F—Export of Certain Species

1. In § 23.51, add new paragraph (d) as follows:

§ 23.51 American ginseng (*Panax quinquefolius*).

* * * * *

(d) 1981 Harvest: Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, Wisconsin.

Conditions on findings: Roots must be documented as to state or origin and season of collecting. Wild and cultivated roots must be certified by the state as legally collected and such certification must be presented upon export.

2. In § 23.52, add new paragraph (e) as follows:

§ 23.52 **Bobcat** (*Lynx rufus*)

* * * * *

(e) 1981–82 Harvest: Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New York, Oklahoma, Oregon, South Carolina, Utah, Vermont, Virginia, West Virginia, Wyoming, Klamath Tribe.

Condition of findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

3. In § 23.53, add new paragraph (e) as follows:

§ 23.53 **River otter** (*Lutra canadensis*)

(e) 1981–82 Harvest: Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, Oregon, South Carolina, Vermont, Virginia.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

4. In § 23.54, add new paragraph (e) as follows:

§ 23.54 **Lynx** (*Lynx canadensis*).

(e) 1981–82 Harvest: Alaska, Minnesota, Montana. Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

5. In § 23.55, add new paragraph (e) as follows:

§ 23.55 **Gray wolf** (*Canis lupus*).

* * * * *

(e) 1981–82 Harvest: None.

Condition on findings: Pelts must be tagged as required by the State of Alaska.

Condition on findings: Pelts must be tagged as required by the State of Alaska.

6. In § 23.56, add new paragraph (e) as follows:

§ 23.56 **Brown bear** (*Ursus arctos*).

* * * * *

(e) 1981–82 Harvest: None.

Condition on findings: Pelts must be tagged as required by the State of Alaska.

7 In § 23.57, add new paragraph (c) as follows:

§ 23.57 **American alligator** (*Alligator mississippiensis*).

* * * * *

(c) 1981–82 Harvest: Florida, Louisiana.

[FR Doc. 81-26370 Filed 9-9-81; 8:45 am]
BILLING CODE 4310-55-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Parts 655, 656, and 657

### Mid-Atlantic Fishery Management Council; Public Hearings

**AGENCY:** National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice of public hearing.

**SUMMARY:** The Mid-Atlantic Fishery Management Council will hold public hearings for the purpose of public input on Amendment No. 3 to the Fishery Management Plans for Squid, Atlantic Mackerel, and Butterfish.

**DATES:** Written comments on the amendment to the plans for squid, Atlantic mackerel, and butterfish from members of the public may be submitted no later than October 7, 1981.

Individuals or organizations wishing to comment on the above amendment may do so at public hearings to be held at the locations listed below:

September 28, 1981; Riverhead, New York

September 28, 1981; Cape May, New Jersey

September 29, 1981; Narragansett (Galilee), Rhode Island

September 30, 1981; Hampton, Virginia.

**ADDRESS:** Send comments to: Chairman, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Delaware 19901.

September 28, 1981; Holiday Inn, Rt. 25, Exit 72 of Long Island Expressway, Riverhead, New York 11901

September 28, 1981; Golden Eagle Inn, Philadelphia Avenue, Cape May, New Jersey 08204

September 29, 1981; Dutch Inn, Great Island Road, Narragansett (Galilee), Rhode Island 02882

September 30, 1981; Sheraton Inn Coliseum, 1215 West Mercury Boulevard, Exit 8 from I-64, Hampton, Virginia 23366.

All of the public hearings mentioned above will convene promptly at 7:00 p.m. Hearings will be tape recorded and the tapes will be filed as an official formal transcript of the proceedings. Summary minutes will be prepared on each hearing.

**FOR FURTHER INFORMATION CONTACT:** Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Delaware 19901, Telephone 302–674–2331.

**SUPPLEMENTARY INFORMATION:** The Squid Fishery Management Plan (FMP) was approved by the National Oceanic and Atmospheric Administration (NOAA) on June 6, 1979. The FMP was for fishing year 1979–80 (April 1, 1979–March 21, 1980). Amendment No. 1, extending the FMP indefinitely beyond fishing year 1979–80, was approved by NOAA on March 19, 1980.

The Atlantic Mackerel FMP was approved by NOAA on July 3, 1979. The FMP was for fishing year 1979–80 (April 1, 1979–March 31, 1980). Amendent No. 1, extending the FMP through fishing year 1980–81, was approved by NOAA on March 17, 1980. Amendment No. 2, extending the FMP through fishing year 1981–82, was approved by NOAA on January 29, 1981.

The Butterfish FMP was approved by NOAA on November 9, 1979. The FMP was for fishing year 1979–80 (April 1, 1979–March 31, 1980). Amendent No. 1, extending the FMP through fishing year 1980–81, was approved by NOAA on March 5, 1980. Amendment No. 2, extending the FMP through fishing year 1981–82, was approved by NOAA on February 26, 1981.

The Mid-Atlantic Fishery Management Council recommends merging the Squid, Atlantic Mackerel, and Butterfish FMPs, extending them through fishing year 1984–85 (March 31, 1985), and revising the management regime.

The management unit is all Atlantic mackerel (*Scomber scombrus*), squid (*Loligo pealei* and *Illex illecebrosus*), and Atlantic butterfish (*Peprilus triacanthus*) under U.S. jurisdiction.

The permitting and reporting requirements of the existing Atlantic Mackerel, Squid, and Butterfish Plans would be combined and revised to permit data collection by means other than logbooks.

The butterfish total allowable level of foreign fishing (TALFF) would be 6 percent of the allocated portion of the *Lolio* TALFF plus 1 percent of the allocated portions of the *Illex*, mackerel, silver hake, and red hake TALFFs. The butterfish optimum yield (OY) would equal domestic annual harvest (DAH) plus TALFF, but could not exceed 16,000 metric tons (mt).

The annual OYs for *Loligo* and *Illex* would be 44,000 mt and 30,000 mt, respectively. Estimates of DAH and Domestic Annual Processing for *Loligo* and *Illex* would be made annually between 7,000–44,000 mt for *Loligo* and 5,000–30,000 mt for *Illex*. The differences between the OYs and DAHs, if any, initially would be allocated one-half to TALFF and one-half to reserve. That portion of the reserve not needed for increases to DAHs could be allocated to TALFFs.

During August for *Illex* and during September for *Loligo*, the Regional Director would project the total amounts of squid that will be harvested by U.S. fishermen during the entire fishing year. For *Illex*, monthly catches from April through July (exclusive of joint venture harvest) would be multiplied by no less than 2.9 to obtain a projected annual harvest. For *Loligo*, monthly catches from April through August (exclusive of joint venture harvest) would be multiplied by no less than 1.3 to obtain a prjected annual harvest. Amounts authorized for joint ventures would be added to these projections. If the projected amount of either species to be harvested by U.S. fishermen, including joint ventures, exceeds the initial DAH, the Regional Director would leave the excess in the reserve to allow the U.S. fishery to continue without closure throughout the year. The remainders of the reserve would then be allocated to TALFF. After the initial allocation, the Regional Director may allocate any remaining portion of the reserves to TALFF if he determines that the domestic harvest, including joint ventures, will not attain the projected level, if such allocation is consistent with the objectives of the merged Plan.

The annual OY, DAH, and TALFF for Atlantic mackerel would be set using a series of procedures that depend on the predicted spawning stock size. The capacity for mackerel in the U.S. recreational fishery would be the greater of 9,000 mt or the amount predicted by the equation:

$$Y=(0.003)(X)-(1.15)$$

where Y is the predicted recreational catch and X is the mackerel spawning stock size the upcoming fishing year in thousands of metric tons. The U.S. commercial capacity estimate could be no less than 5,000 mt.

If the spawning stock size would be less than or equal to 700,000 mt after the full U.S. and Canadian harvesting capacities were taken, the mackerel TALFF could be no greater than 2 percent of the allocated portion of the silver hake TALFF plus 1 percent of the allocated portions of the TALFFs for *Illex, Loligo,* and red hake. DAH would be set equal to that amount which would leave a spawning stock size of 700,000 mt, or 14,000 mt, whichever is greater. OY would equal the sum of DAH and TALFF.

If the spawning stock size would be larger than 700,000 mt after the full predicted U.S. and Canadian harvesting capacities were filled, OY would equal that amount which, when taken in addition to the predicted Canadian catch, would result in a spawning stock size of 700,000 mt the following year, but the total mackerel catch (all waters, all nations) could not result in a fishing mortality rate greater than 0.4.

The TALFF would equal the difference between the OY and DAH, but would not be less than 2 percent of the allocated portion of the silver hake TALFF plus 1 percent of the allocated portions of the *Illex, Loligo,* and red hake TALFFs. If the TALFF thus derived were greater than 10,000 mt, one-half would be allocated to the initial TALFF and the other half would be placed in a reserve.

If such a reserve were created, during October of each year, the Regional Director would project the total amount of mackerel that would be harvested by U.S. fishermen during the entire fishing year. If that amount exceeded the initial DAH, the Regional Director would leave the excess in the reserve to allow the U.S. fishery to continue without closure throughout the year. That part of the reserve not needed to meet the projected U.S. harvest would be allocated to TALFF.

Directed foreign fishing for Atlantic mackerel would be prohibited from March 1 through October 31 but incidental catches of Atlantic mackerel in other authorized foreign fisheries would be permitted at any time, so long as TALFFs are not exceeded.

Dated: September 4, 1981.

Robert K. Crowell,

*Deputy Executive Director, National Marine Fisheries Service.*

[FR Doc. 81-26477 Filed 9-9-81; 8:45 am]

BILLING CODE 3510-22-M

# Notices

Federal Register
Vol. 46, No. 175
Thursday, September 10, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Economic Research Service

### Discontinuance of Weekly Retail Prices and Farm to Retail Price Spreads for Beef and Pork

Following careful review of public comments in accordance with the notice of intent published in Federal Register Vol. 46, No. 137, p. 37063, Friday, July 17, 1981, the Economic Research Service announces the discontinuance of publication of weekly farm to retail price spreads for beef and pork, effective immediately. Publication of farm to retail price spreads on a monthly basis will continue as a normal part of market basket statistics. This cost-reduction measure will save about $100 thousand annually.

Done at Washington, D.C. this 4th day of September, 1981.

Kenneth R. Farrell,

*Acting Administrator.*

[FR Doc. 81-26434 Filed 9-9-81; 8:45 am]

BILLING CODE 3410-18-M

### Forest Service

### Western Spruce Budworm Infestation Suppression and Evaluation Program; Santa Fe National Forest; Santa Fe County, New Mexico; Intent To Prepare an Environmental Impact Statement

The U.S. Department of Agriculture, Forest Service, will prepare an environmental impact statement for an integrated pest management program responding to Western Spruce Budworm epidemic infestations in the Jemez Mountains.

A range of alternatives for dealing with the infestation will be considered. One of the alternatives will be to take no action. Other alternatives will consider various control methods such as chemical, biological, and cultural.

The Forest Service will utilize an interdisciplinary team that will include individuals representing disciplines covering the biological, physical, and social sciences. Federal and state agencies who may be interested in or affected by the decision are being invited to offer comments or participate in the preparation of the draft environmental impact statement.

Mr. M. J. Hassell, Regional Forester of the USDA Forest Service, Southwestern Region in Albuquerque, New Mexico, is the responsible official. The *draft environmental impact statement* should be available for public review by November 1981. The final environmental impact statement is scheduled to be completed in April 1982.

Comments, concerns, and information pertaining to the Western Spruce Budworm Program should be submitted in writing to James L. Perry, Forest Supervisor, Santa Fe National Forest, P.O. Box 1689, Santa Fe, New Mexico 87501, telephone No. (505) 988-6940.

Dated: September 2, 1981.

M. J. Hassell,

*Regional Forester.*

[FR Doc. 81-26389 Filed 9-9-81; 8:45 am]

BILLING CODE 3410-11-M

## CIVIL AERONAUTICS BOARD

[Order 81-9-27]

### Fitness Determination of Air Vectors Airways, Inc., Order to Show Cause

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Commuter Air Carrier Fitness Determination—Order 81-9-27, Order to Show Cause.

**SUMMARY:** The Board is proposing to find that Air Vectors Airways, Inc. is fit, willing, and able to provide commuter air carrier service under section 419 (c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

**DATES:** *Responses:* All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than September 24, 1981, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

**ADDRESSES:** Responses or additional data should be filed with Sepcial Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of Order 81-9-27.

**FOR FURTHER INFORMATION CONTACT:** Mr. J. Kevin Kennedy, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5918.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 81-9-27 is available from the Distribution Section, Room 516, 1825 Connecticut Avenue, NW, Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81-9-27 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: September 3, 1981.

Phyllis T. Kaylor,

*Secretary.*

[FR Doc. 81-26427 Filed 9-9-81; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33362, 39833, and 39834]

### Former Large Irregular Air Service Investigation and Applications of Eagle Aviation, Inc., Assignment of Proceeding

This proceeding, insofar as it involves the applications of Eagle Aviation, Inc., Dockets 39833 and 39834, has been assigned to Administration Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., September 3, 1981.

Joseph J. Saunders,

*Chief Administrative Law Judge.*

[FR Doc. 81-26428 Filed 9-9-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39693; (81-9-26)]

### Golden West Airlines, Co., Application; Order to Show Cause

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Order to Show Cause (81-9-26).

**SUMMARY:** The Board is proposing to award air route authority at San Francisco, California to Golden West Airlines, Co.

The complete text of this order is available as noted below.

**DATES:** *Objections:* All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions of the above order shall file, by September 24, 1981, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

**ADDRESSES:** Objections to the issuance of a final order should be filed in Docket 39693. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Golden West; the Mayor and Airport Managers of San Francisco, Lake Tahoe, and Santa Barbara, California; the California Tahoe Regional Planning Agency; California Public Utilities Commission; and the California Transportation Commission, Aeronautics Subcommittee.

**FOR FURTHER INFORMATION CONTACT:** Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5330.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 81-9-26 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 81-9-26 to that address.

By the Civil Aeronautics Board: September 3, 1981.

Phyllis T. Kaylor,

*Secretary.*

[FR Doc. 81-26429 Filed 9-9-81; 8:45 am]

BILLING CODE 6320-01-M

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[Docket 39761 (81-9-12)]

## Golden West Airlines, Co., Application; Order To Show Cause

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Order to Show Cause (81-9-12).

**SUMMARY:** The Board is proposing to award air route authority at Fresno, California to Golden West Airlines, Co.

The complete text of this order is available as noted below.

**DATES:** *Objections:* All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions of the above order shall file, by September 23, 1981, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

**ADDRESSES:** Objections to the issuance of a final order shall be filed in Docket 39761. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Golden West Airline Company; the Mayors and Airport Managers of Fresno, Lake Tahoe and Santa Ana, California; the California Tahoe Regional Planning Agency; California Public Utilities Commission; and the California Transportation Commission, Aeronautics Subcommittee, and the California Attorney General's Office.

**FOR FURTHER INFORMATION CONTACT:** Charles Stohr, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-5000.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 81-9-12 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 81-9-12 to that address.

By the Civil Aeronautics Board: September 3, 1981.

Phyllis T. Kaylor,

*Secretary.*

[FR Doc. 81-26430 Filed 9-9-81; 8:45 am]

BILLING CODE 6320-01-M

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[Docket 32131; (Order 81-9-13)]

## Proceeding to Revoke All-Cargo Certificate and Air Taxi Authority of Klondike Air/Nielsen Aviation, Inc.; Order to Show Cause

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Order 81-9-13; Order to Show Cause, Docket 32131.

**SUMMARY:** The Board is proposing to revoke the All-Cargo Air Service Certificate and air taxi authority of Klondike Air/Nielsen Aviation, Inc. of Anchorage, Alaska. This order is being proposed because the carrier surrendered its air carrier license to the FAA and has not attempted to reinstate its license, nor does it have current insurance coverage as required by the Board.

**DATES:** *Objections:* All interested persons having objections to the Board issuing an order revoking the All-Cargo Air Service Certificate and air taxi authority of Klondike Air/Nielsen Aviation, Inc. shall file no later than September 23, 1981, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

**ADDRESSES:** *Responses:* Objections should be filed in Docket 32131, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

**FOR FURTHER INFORMATION CONTACT:** Barbara P Dunnigan, Bureau of Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673-5918.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 81-9-13 is available from the Distribution Section, Room 516, 1825 Connecticut Avenue, NW, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 81-9-13 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: September 3, 1981.

Phyllis T. Kaylor,

*Secretary.*

[FR Doc. 81-26431 Filed 9-9-81; 8:45 am]

BILLING CODE 6320-01-M

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## DEPARTMENT OF COMMERCE

### International Trade Administration

## Unrefined Montan Wax From the German Democratic Republic; Antidumping Duty Order

**AGENCY:** Department of Commerce, International Trade Administration.

**ACTION:** Antidumping Duty Order.

**SUMMARY:** In separate investigations the Department of Commerce ("the Department") and the International Trade Commission ("ITC") have determined that unrefined montan wax from the German Democratic Republic is being sold at less than fair value and that these sales are materially injuring a U.S. industry. Therefore, all unappraised entries of this merchandise made on or after March 12, 1981—the date from which final assessment of duty has been suspended—will be liable for the possible assessment of antidumping duties. Further, a deposit of estimated antidumping duties must be made on all

such entries made on and after publication of this order in the Federal Register.

**EFFECTIVE DATE:** September 10, 1981.

**FOR FURTHER INFORMATION CONTACT:** Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3003).

**SUPPLEMENTARY INFORMATION:** On March 12, 1981, we published our preliminary determination that unrefined montan wax imported from the German Democratic Republic ("GDR") was being, or was likely to be, sold in the United States at less than fair value (46 FR 16287). On July, 28, 1981, we announced our final determination these imports were being sold at less than fair value (46 FR 38555). The final determination was amended on August 31, 1981 (46 FR 43727).

In accordance with section 735(b) of the Traffic Act of 1930, as amended ("the Act") (19 U.S.C. 1673d(b)), the ITC determined that an industry in the United States is being materially injured by reason of imports of unrefined montan wax from the GDR. On August 31, 1981, it notified us of this decision.

In accordance with section 736 of the Act (19 U.S.C. 1673e), I am directing U.S. Customs officers to assess an antidumping duty equal to the amount by which the foreign market value of the merchandise exceeds the U.S. price for all entries of unrefined montan wax as herein defined, imported from the GDR. This order applies to all entries subject to the "suspension of liquidation" notice published in the Federal Register on March 12, 1981 (46 FR 16287) and all future entries of said merchandise until further notice.

For the purpose of this notice, the term unrefined montan wax applies to a nonoxidized mineral wax extracted from lignite, not advanced beyond extraction or cleansing by solvent, currently classifiable under item 494.20 of the Tariff Schedules of the United States.

On or after the date of publication of this notice, Customs officers shall require, at the same time as importers deposit their estimated normal customs duties on the merchandise, an additional cash deposit of estimated dumping duties equal to 13.02 percent *ad valorem* of the ex-factory value of the merchandise, pending final liquidation of entries.

I hereby make public this determination, which constitutes an antidumping duty order with respect to unrefined montan wax from the GDR pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). The Department intends to conduct an administrative review within twelve months of the publication of this order as provided in section 751 of the Act (19 U.S.C 1675).

We have deleted from the Commerce Regulations Annex I to 19 CFR 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Gary N. Horlick,

*Deputy Assistant Secretary for Import Administration.*

September 4, 1981.

[FR Doc. 81-26429 Filed 9-9-81; 8:45 am]

BILLING CODE 3510-25-M

## National Oceanic and Atmospheric Administration

### New England Fishery Management Council; Public Meeting With Partially Closed Session

**AGENCY:** National Marine Fisheries Service, NOAA; Commerce.

**SUMMARY:** Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended in 1976 by Pub. L. 94-409, notice is hereby given of public meeting with a partially closed session of the New England Fishery Management Council, which was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, 16 U.S.C. 1852) to manage and conserve America's fisheries as specified by the Act. The Council will hold the closed session of the meeting to discuss the competence and salaries of Council personnel. Only council members and required staff will be allowed to attend this closed session. The open session of the meeting will pertain to discussion of the development of the Lobster Fishery Management Plan (FMP), Sea Scallops FMP and Atlantic Groundfish Interim FMP, an Executive Director's Report and approval of minutes, as well as other appropriate business.

**DATES:**

*Council* (open meeting) September 29-30, 1981 (10 a.m. to 4:30 p.m., on September 29; 9 a.m. to 12 p.m., on September 30).

*Council* (closed session) September 30, 1981 (1:30 p.m. to 4:30 p.m.).

**ADDRESS:** The meeting will take place at the Holiday Inn, Downtown, 88 Spring Street, Portland, maine.

**FOR FURTHER INFORMATION CONTACT:** New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route one), Saugus, Massachusetts 01906, Telephone: (617) 231-0422.

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary for Administration of the Department of Commerce, with the Concurrence of the General Counsel, formally determined on September 4, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(6), as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Facility, Room 5317, Department of Commerce.) All other portions of the meetings will be open to the public.

Dated: September 4, 1981.

Robert K. Crowell,

*Deputy Executive Director, National Marine Fisheries Service.*

[FR Doc. 81-26482 Filed 9-9-81; 8:45 am]

BILLING CODE 3510-22-M

## DEPARTMENT OF EDUCATION

## Office of Postsecondary Education

### Fulbright-Hays Training Grants; Application Notice for New Projects for Fiscal Year 1982

Applications are invited for new projects under the Fulbright-Hays Training Grants—Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs.

Authority for these programs is contained in section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961. (22 U.S.C. 2452(b)(6))

These programs issue awards to eligible applicants. Eligible applicants for Fulbright-Hays Training Grants are as follows:

a. For the Faculty Research Abroad program, accredited institutions of higher education;

b. For the Foreign Curriculum Consultants program, accredited institutions of higher education, State departments of education, local public school systems, private nonprofit

educational organizations, and consortiums of such entities;

c. For the Group Projects Abroad program, accredited institutions of higher education, State departments of education, private nonprofit educational organizations, and consortiums of such entities;

d. For the Doctoral Dissertation Research Abroad program, accredited institutions of higher education which offer doctoral programs in the fields of foreign languages and area studies.

The purpose of the awards is to improve and develop modern foreign language and area studies in the educational structure of the United States.

*Closing date for transmittal of applications:* An application for a grant must be mailed or hand-delivered by *November 20, 1981.*

*Applications delivered by mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.019, Faculty Research Abroad program; 84.020, Foreign Curriculum Consultants program; 84.021, Group Projects Abroad program; 84.022, Doctoral Dissertation Research Abroad program, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each later applicant will be notified that its application will not be considered.

*Applications delivered by hand:* An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building, 3, 7th and D Streets, SW, Washington, D.C. The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

*Program Information:* Evaluation criteria and eligibility requirements for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs appear in the Code of Federal Regulations in 34 CFR Part 662.

*Funding Priorities:* The Secretary has not established funding priorities for Fiscal Year 1982.

*Available Funds:* It is expected that approximately $2,510,000 in U.S. dollars and $936,600 in special foreign currencies will be available for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs in Fiscal Year 1982.

It is estimated that these funds could support the following distribution of awards:

(a) Twenty Faculty Research Abroad fellows at an average cost of approximately $14,750.

(b) Ten Foreign Curriculum Consultants at an average cost of approximately $15,500.

(c) Twenty-four Group Projects Abroad at an average cost of approximately $74,858.

(d) Seventy-three Doctoral Dissertation Research Abroad fellows at an average cost of approximately $16,450. It is anticipated that the world area distribution of these fellowships will be within the following ranges: Africa 9–11; Latin America 9–11; East Asia 13–15; Southeast Asia 6–9; East Europe 13–15; Near East 9–11; South Asia 7–10.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

*Application Forms:* Application forms and program information packages are expected to be ready for mailing by September 25, 1981. They may be obtained by writing to the Office of International Education, U.S. Department of Education, (Room 3669, ROB–3), 400 Maryland Avenue, SW, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that the narrative portion of the application be double-spaced typed letter size pages and not exceed the following pages in length:

(a) For the Faculty Research Abroad program, five pages;

(b) For the Foreign Curriculum Consultants program, ten pages;

(c) For the Group Projects Abroad program, twenty pages;

(d) For the Doctoral Dissertation Research Abroad program, five pages.

The Secretary further urges that applicants not submit information that is not requested.

*Applicable Regulations:* Regulations applicable to this program include the following:

(a) Regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies (34 CFR Part 662).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Part 75 and 77).

*Further Information:* For further information, contact Mr. Ralph Hines (Group Projects Abroad and Foreign Curriculum Consultants programs) or Mr. John Paul (Doctoral Dissertation Research Abroad and Faculty Research Abroad programs), Office of International Education, U.S. Department of Education (Room 3669, ROB–3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245–2794.

(22 U.S.C. 2452(b)(6))

Dated: September 2, 1981.

(Catalog of Federal Domestic Assistance No. 84.019; Faculty Research Abroad program. No. 84.020; Foreign Curriculum Consultants program. No. 84.021; Group Projects Abroad program. No. 84.022; Doctoral Dissertation Research Abroad program)

T. H. Bell,

*Secretary of Education.*

[FR Doc. 81-26328 Filed 9-8-81; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Compliance With the National Environmental Policy Act; Termination of Work on Two Environmental Impact Statements

**AGENCY:** Department of Energy.

**ACTION:** Notice of termination of work on the Draft Environmental Impact Statement (EIS) for the commercial feasibility demonstration of one or more surface oil shale retorting processes in the State of Colorado and/or Utah, and on the Final EIS for Mining, Construction and Operation for a Full Size Module at the Anvil Points Oil Shale Facility, Rifle, Garfield County, Colorado.

**SUMMARY:** The Department of Energy (DOE) announced its intention to prepare an EIS for its proposed funding of a commercial feasibility demonstration of one or more surface oil shale retorting processes in the State of Colorado and/or Utah, in the Federal Register on July 16, 1980 (45 FR 47811). Public scoping meetings were held in Vernal, Utah; Rifle, Colorado; and Denver, Colorado, during August 1980, and preparation of the EIS was begun. Subsequently, DOE determined that it will make no awards under this program, and has, therefore, terminated work on preparation of the EIS.

In August 1980, DOE published a Draft EIS addressing Mining, Construction and Operation for a Full Size Module at the Anvil Points Oil Shale Facility, Rifle, Garfield County, Colorado (DOE/EIS-0070) (45 FR 57765). The proposed activity described in the draft EIS is no longer being proposed by the applicant. Therefore, DOE has determined that a Final EIS will not be prepared for this action.

**ADDRESS:** Comments or questions may be directed to: Dr. Arthur Hartstein, Oil Shale Division, FE-34, U.S. Department of Energy, Washington, D.C. 20545, phone: (301) 353-2707; or to Mr. Steven R. Woodbury, NEPA Affairs Division, EP-33, U.S. Department of Energy, Room 4G-057, Forrestal Building, Washington, D.C. 20585, phone: (202) 252-4610.

Dated at Washington, D.C. this 2nd day of September for the United States Department of Energy.

Barton R. House,

*Acting Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.*

[FR Doc. 81-26464 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-01-M

## Economic Regulatory Administration

### Double U Oil Co., Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Double U Oil Company. This Proposed Remedial Order charges Double U with pricing violations in the amount of $85,614.46 connected with the sale of crude oil and condensate at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period June 1975 through March 1980 in the State of Texas.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7745. On or before September 25, 1981, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 9th day of June, 1981.

Wayne I. Tucker,

*Southwest District Manager, Economic Regulatory Administration.*

[FR Doc. 81-26435 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-01-M

### Glen A. Martin; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Glen A. Martin of San Antonio, Texas. This Proposed Remedial Order charges Martin with pricing violations in the amount of $202,962.15 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period June 1975 through July 1980 in the State of Texas.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7745. On or before September 25, 1981, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 27th day of August, 1981.

Wayne I. Tucker,

*Southwest District Manager, Economic Regulatory Administration.*

[FR Doc. 81-26437 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-01-M

### Jack E. Guenther; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Jack E. Guenther of San Antonio, Texas. This Proposed Remedial Order charges Guenther with pricing violations in the amount of $210,904.85 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period June 1975 through July 31, 1980 in the State of Texas.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7745. On or before September 25, 1981, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 27th day of August, 1981.

Wayne I. Tucker,

*Southwest District Manager, Economic Regulatory Administration.*

[FR Doc. 81-26436 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

[Docket No. TA82-1-34-000]

### Florida Gas Transmission Co.; Proposed Changes in Rates and Charges Under Purchased Gas Adjustment and Incremental Pricing Provisions

September 3, 1981.

Take notice that on August 28, 1981 Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, tendered for filing the following tariff sheets to its F.E.R.C. Gas Tariff:

*Original Volume No. 1*

Second Substitute 26th Revised Sheet No. 3-A.

Fourth Revised Sheet No. 3-B.

*Original Volume No. 2*

First Substitute 16th Revised Sheet No. 128.

The aforementioned tariff sheets contain changes in its resale rates in Rate Schedules G and I and in Rate Schedule T-3 resulting from adjustment provisions in the Company's tariff for the cost of purchased gas and Incremental Pricing Provision. FGT proposes to make the rate changes effective October 1, 1981.

According to FGT, the changes contained on Second Substitute 26th Revised Sheet No. 3-A and First Substitute 16th Revised Sheet No. 128

are made in accordance with the purchased gas cost adjustment and incremental pricing provision in its tariff (section 15, General Terms and Conditions). FGT also states that Fourth Revised Sheet No. 3-B contains the estimated incremental pricing surcharges by customer by month for the adjustment period.

The net effect of the above-mentioned adjustments for Rate Schedule G and I is to increase the currently effective rate by 3.642¢/therm. Based on estimated G and I sales for the next 12 months this results in an annual revenue increase of approximately $33,261,000. Below is a table comparing the G and I rates before and after the October 1, 1981 change.

[Therms in cents]

| | October 1, 1981—Effective | |
|---|---|---|
| | Prior to | To be on |
| Rate schedule G | 25.161 | 28.803 |
| Rate schedule I | 25.161 | 28.803 |

The net effect of the above-mentioned adjustments for Rate Schedule T-3 is a decrease of .19¢/Mcf. The rate for Rate Schedule T-3 in effect immediately prior to October 1, 1981 is 41.63¢/Mcf. The rate to be effective on October 1, 1981 is 41.44¢/Mcf. The annual effect on revenues from Rate Schedule T-3 is a decrease of $138,700.

FGT states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, Original Volume Nos. 1 and 2 and the Florida Public Service Commission and is being posted.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1981. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26466 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA82-1-36-000]

## Mountain Fuel Supply Co.; Tariff Sheet Filing Effective October 1, 1981

September 3, 1981.

Take notice that on August 23, 1981, Mountain Fuel Supply Company pursuant to § 154.62 of the Regulations of the Federal Energy Regulatory Commission (Commission), filed Thirteenth Revised Sheet No. 3-A to its FERC Gas Tariff, Original Volume No. 1. Mountain Fuel states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment provision authorized by Commission order issued February 27, 1976, in Docket No. RP76-64. More specifically, the tariff sheet reflects a net increase from that currently being collected of $.52642/Mcf (Rate Schedule X-4), $.25370/Mcf (Rate Schedule X-5) and $.20349/Mcf (Rate Schedule X-20) all to be effective October 1, 1981.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 17, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's rules. Mountain Fuel Supply Company's Tariff Filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26467 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-49-001]

## Natural Gas Pipeline Co. of America; Motion To Make Tariff Sheets Effective

September 3, 1981.

Take notice that on August 21, 1981, Natural Gas Pipeline Company of America (Natural) filed with the Federal Energy Regulatory Commission a Motion to Make Suspended Tariff Sheets Effective. Natural moves to make effective on October 1, 1981 tariff sheets filed on March 31, 1981 in this proceeding with certain revisions.

Natural states that it has made the following revisions to its March 31, 1981 tariff filing: (1) removes from rate base certain facilities which it now anticipates will not be certificated and in service by September 30, 1981; (2) reflected the estimated balance of advance payments outstanding as of September 30, 1981; and (3) restated the PGA unit adjustment based on Natural's PGA filing effective September 1, 1981.

Natural states that copies of the Motion, together with the tariff sheets, work papers, Agreement and Undertaking, and Resolution have been served on all of Natural's jurisdictional customers, all parties to this proceeding, and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26468 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-47-001]

## Northwest Pipeline Corp.; Change in FERC Gas Tariff

September 3, 1981.

Take notice that on August 25, 1981, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance First Revised Sheet Nos. 122 through 131 which represent a proposed change in its FERC Gas Tariff, First Revised Volume No. 1.

The tendered tariff sheets provide for a revision of Northwest's Purchased Gas Cost Adjustment provision contained in its Volume No. 1 Tariff. The proposed revisions contained in said filing will provide for a change in the methodology used to calculate the purchased gas cost adjustment and will not result in an increase or decrease in revenues. The proposed effective date is October 1, 1981.

A copy of this filing has been served on Northwest's jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26469 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. TA82-1-35-000]

## Peoples Natural Gas Co., Division of InterNorth, Inc., Rate Change Pursuant To Purchased Gas Cost Adjustment Provision

September 3, 1981.

Take notice that on August 27, 1981, Peoples Natural Gas Company, Division of InterNorth, Inc., (Peoples) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 4, the following tariff sheet:

*Twenty-eighth Revised Sheet No. 3a*

Twenty-eighth Revised Sheet No. 3a is filed pursuant to Peoples' Purchased Gas Adjustment provisions of its FERC Gas Tariff, Original Volume No. 4. This change in rates reflects the increase in Peoples' average estimated cost of purchased gas, pursuant to paragraph 19.2 of its FERC Gas Tariff, Original Volume No. 4.

Copies of the filing were served upon the Gas Utility Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such positions or protests should be filed on or before September 17, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26470 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. RP81-25-001]

## South Georgia Natural Gas Co., Proposed Changes in FERC Gas Tariff

September 3, 1981.

Take notice that South Georgia Natural Gas Company (South Georgia), on August 26, 1981, tendered for filing a restatement of its Base Tariff Rates and a supporting cost study pursuant to Section 154.38(d)(4)(vi)(a) of the Commission's Regulations. South Georgia states that this filing reflects no change in the level of South Georgia's existing jurisdictional rates but is being made for the purpose of justifying such rates.

This filing is being made pursuant to § 154.38(d)(4)(vi)(a) of the Commission's regulations and in compliance with the Commission's Order dated June 8, 1981 in Docket No. RP81-25 requiring South Georgia to restate its Base Tariff Rates effective August 1, 1980 and to file a supporting cost study.

Copies of this filing have been served upon South Georgia's jurisdictional customers and interested state public service Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE, Washington, D.C., 20426 in accordance with §§ 1.8, and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1981. Petitions will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26471 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. RP81-133-000]

## Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Tariff Filing Pursuant to Order No. 10-D

September 3, 1981.

Take notice that on August 28, 1981, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing Second Revised Sheet Nos. 20 and 22 to Original Volume No. 1 of its FERC Gas Tariff to be effective on August 1, 1981.

Tennessee states that the sole purpose of these tariff sheets is to delete the Surcharge for Amortizing the Unrecovered First Use Tax Account in accord with the Commission's Order No. 10-D.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26472 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. RP81-56-000]

## Tennessee Gas Pipeline Co., Date for Informal Settlement Conference

September 3, 1981.

Take notice that an informal settlement conference in the above-listed docket will be held September 16, 1981. Such informal conference will be at 10:00 a.m. and will include all interested persons desiring to engage in settlement discussions in this proceeding. The meeting place will be posted on the day of the conference on the second floor of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in these proceedings and to make commitments with respect to such issues and to any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26473 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. RP81-130-000]

## Transwestern Pipeline Co.; Proposed Change in FERC Gas Tariff

September 3, 1981.

Take notice that Transwestern Pipeline Company (Transwestern) on August 28, 1981, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1. Transwestern has filed four alternative sets of revised tariff sheets underlying its major rate increase. The primary revised tariff sheets reflect utilization of the *United* method of cost classification for allocation and rate design purposes, but does not reflect the utilization of the *South Georgia* method of amortizing Transwestern's future unfunded income tax liability. In the event of a Commission decision permitting Transwestern to utilize the *Seaboard* method of cost classification for allocation and rate design purposes and/or in the event that the Internal Revenue Service (IRS) issues a ruling satisfactory to Transwestern, permitting Transwestern to utilize the *South Georgia* method without jeopardizing its ability to take accelerated depreciation, Transwestern will file to place into effect the revised tariff sheets included in Alternates I, II, and III, as appropriate. The proposed increased rates reflected in the primary revised tariff sheets and the revised tariff sheets included in Alternate II will increase the level of Transwestern's jurisdictional rates to provide an annual increase in revenues from jurisdictional sales and services of approximately $68 million based on the test period sales and services for the twelve months ended May 31, 1981, as adjusted. The increased rates reflected in the revised tariff sheets included in Alternates I and III and based on a cost of service using the *South Georgia* method to amortize Transwestern's future unfunded income tax liability and, therefore, provide an annual increase in revenues from jurisdictional sales and services of approximately $70 million. Approximately $10 million of the proposed increase can be attributed to purchased gas cost increases reflected in the proposed rate level but not accounted for in the present rate level which Transwestern will track under the applicable provisions of its FERC gas tariff. The remainder of the increase is related to other than purchased gas cost increases.

Transwestern states that the principal reasons for the proposed rate increase are:

(1) Increased costs of labor, expenses, plant facilities cost and working capital requirements;

(2) The need for an increased overall rate of return of 15.75%;

(3) Increased income taxes, including income taxes associated with increased return; and

As part of its proposed major rate increase, Transwestern has filed revised tariff sheets to reflect changes in and additions to its FERC gas tariff and related rate schedules as follows:

(1) A new section 23 to permit tracking of the costs of transmission and compression services performed by others for Transwestern;

(2) A revision in section 22 of the General Terms and Conditions of Transwestern's tariff to change priority of service requirements of certain transportation services;

(3) Revised definitions of "Mcf", and "total heating value" to effect conversion from a saturated to a dry basis of measuring dekatherms;

(4) A revision of the minimum heating value requirement from 950 to 967 British Thermal Units as a result of the conversion to a dry measurement basis;

(5) A revision to Rate Schedule TP-1 in the description of the derivation of the rate required by a prior approved and effective change in the definition of Base Average Gas Costs under the PGA provisions of Transwestern's tariff;

(6) An increase in the penalty provisions of the General Terms and Conditions of Transwestern's tariff to increase overrun penalties from $10 to $20 per dekatherm;

(7) Revisions in section 7, Payment, to specify the payment date as the date mailed to a place specified by Transwestern and to change the interest rate on overdue payments and payments relating to billing errors from 9% to a rate prescribed for pipeline refunds in § 157.67(d) of the Commission's regulations;

(8) A revision of § 19.6, Supplier Refunds, under the PGA provisions of Transwestern's tariff to permit cash refunds when § 282.506 of the Commission's regulations under the NGPA would otherwise be applicable;

(9) A correction in the referenced section number in section 4.1 of the General Terms and Conditions of Transwestern's tariff; and

(10) A change in section 19.2(C) of the General Terms and Conditions of Transwestern's tariff to reflect the currently effective Base Average Gas Cost of $2.1466 per dekatherm.

Transwestern has requested waiver of any rules and regulations of the Commission to the extent required to put the foregoing major rate increase and accompanying tariff revisions and rate schedule revisions into effect.

Any person desiring to be heard or to protest such filing should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capital Street, Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26474 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. GP81-41-000]

## Trio Petroleum Corp. and Waco Oil & Gas Co., Inc.; Petition for Declaratory Order

September 3, 1981.

On August 5, 1981, supplemented on August 24, 1981, by their legal counsel, Trio Petroleum Corp. and Waco Oil and Gas Co., Inc. (Petitioners) pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure and the Administrative Procedure Act, 5 U.S.C. 554(e), petitioned the Commission to issue a declaratory order allowing reimbursement for all Business and Occupation taxes (B&O tax) imposed by the State of West Virginia on their "production" and "production-related"

activities. This reimbursement would be in addition to the wellhead ceiling prices prescribed by the NGPA.

Petitioners state the B&O taxes are imposed by West Virginia on producers "for the act or privilege of engaging in business activities" within the state and are "measured by the application of rates against the value of products, gross proceeds of sale or gross income of the business." W. Va. Reg. BOT. section 1.2. A tax rate of 8.63% is applied to the production of natural gas with a value at the wellhead in excess of $5,000.00. W. Va. Reg. BOT. section 1.2. A "service" tax rate of 1.15% is applied to gas sold at a delivery point other than at the wellhead. W. Va. Reg. BOT. section 1.2(F)(2). A producer which delivers gas to a purchaser through his own gathering lines may deduct 15% of his gross production proceeds as compensation for his gathering services. W. Va. BOT. section 1.2a(F)(2)(c). That portion of his gross proceeds would be subject to the "service" tax rate of 1.15% while the remaining 85% would be subject to the "production" tax rate of 8.63%.

Petitioners state that while interstate pipelines recognize their obligation to reimburse producers for the 8.63% B&O tax on 85% of their gross production proceeds, some question whether it is acceptable to reimburse producers for the 1.15% B&O tax on 15% of their gross production proceeds attributed to gathering services. It is Petitioners' position that all B&O taxes imposed by West Virginia for the privilege of engaging in "production" or "production-related" gathering activities are reimbursable by interstate pipelines.

Any person desiring to be heard or to protest this petition should file, on or before October 13, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a protest or a petition to intervene in accordance with § 1.8 or § 1.10 of the Commission's Rules of Practice and Procedure. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26475 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-106-003]

## Trunkline Gas Co., Change in Tariff

September 3, 1981.

Take notice that on August 26, 1981 Trunkline Gas Company (Trunkline) tendered for filing the tariff sheets as listed on the attached Appendix A. With the exception of First Substitute Thirty-Fifth Revised Sheet No. 3-A, Trunkline proposes an effective date of December 1, 1980. A March 1, 1981 effective date is requested for the First Substitute Thirty-Fifth Revised Sheet No. 3-A.

Article III of such Stipulation and Agreement requires Trunkline to simultaneously file revised tariff sheets to implement such agreement. Subject submittal reflects this filing requirement. Trunkline states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 81-26476 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-85-M

## Office of Energy Research

## Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Energy Research Advisory Board.
Date and Time: September 24, 1981—10:00 a.m.—5:00 p.m.
Place: Department of Energy, Forrestal Building, Room 4A110, 1000 Independence Avenue, SW. Washington, D.C. 20585.
Contact: Georgia Hildreth, Chief, Advisory Committee Management Branch, Department of Energy, Forrestal Building—Room 4B222, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 202-252-5187.
Purpose of Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.
Tentative Agenda:
Working session in preparation of an ERAB report on R&D Priorities in the Department.
Public Comment (10 minute rule).
Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Branch at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.
Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on September 4, 1981.

Howard H. Raiken,

*Director of Management Systems Analysis Division.*

[FR Doc. 81-26522 Filed 9-9-81; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[A-FRL-1924-2]

## District of Columbia and Region III; Memorandum of Understanding for Prevention of Significant Deterioration of Air Quality

**AGENCY:** Environmental Protection Agency.

**ACTION:** Information notice.

**SUMMARY:** EPA Region III and District of columbia have developed a Memorandum of Understanding (MOU) which provides for interagency cooperation in implementing the PSD prgram. Through the MOU, the District of Columbia will receive and process PSD permits; however, EPA Region III will retain full authority and responsibility to issue or deny PSD permits.

**EFFECTIVE DATE:** September 10, 1981.

The Regional Administrator finds good cause for making this MOU effective immediately in that it is an administrative change and not one of substantive content.

**ADDRESSES:** Copies of the MOU and related documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: Robert J. Blaszczak (3AH13), 215/597-8186 or FTS 597-8186.

Bureau of Air and Water Quality, Department of Environmental Services, 5010 Overlook Avenue, SW., Washington, D.C. 20032. Attn: V. Ramadass, 202/767-7376 or FTS 767-7376.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Blaszczak at 215/597-8186.

**SUPPLEMENTARY INFORMATION:** The Regional Administrator, EPA Region III, and the Director of the Department of Environmental Services, District of Columbia, have signed a Memorandum of Understanding (MOU), which provides for interagency cooperation in the implementation of the PSD program. As of the effective date, all PSD permit applications for sources locating in the District of Columbia will be submitted directly to the District of Columbia for processing. Aside from these processing activities, EPA Region III will retain full authority and responsibility for the PSD program in the District of Columbia. Processing activities include applicability/completeness evaluations and BACT, air quality and other impact analyses. EPA Region III retains full authority and responsibility to issue and/or deny PSD permits.

The MOU will become effective as of the publication date of this notice. The Regional Administrator finds good cause for making the MOU effective immediately in that it is an administrative change and not one of substantive content.

Under Executive Order 12291, EPA must also judge whether a publication is "major" and therefore subject to the requirement of a regulatory impact analysis. This MOU is not "major." This action only provides for the implementation of an administrative change in PSD permit processing, and does not change any existing regulatory requirement.

This MOU was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Effective immediately, all applications and other information pursuant to § 52.21 from sources locating in the District of Columbia should be submitted to the District of Columbia agency at the following address: Department of Air and Water Quality, Department of Environmental Services, 5010 Overlook Avenue, SW, Washington, D.C. 20032.

Authority: 42 U.S.C. 7601(a)(1).

Dated: August 18, 1981.

Greene A. Jones,

*Acting Regional Administrator.*

[FR Doc. 81-26308 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-38-M

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[WH-6FRL-1930-7]

## Aquifer System in Southeastern Louisiana and Southwestern Mississippi; Request for Determination

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of receipt; comment period.

**SUMMARY:** The Environmental Protection Agency announces the receipt of a petition requesting the designation of the aquifer system in southeastern Louisiana and southwestern Mississippi as a sole or principal source of drinking water and opens a public comment period to request information about the area.

**DATES:** Comments will be accepted until December 1, 1981. The Agency's proposal to grant or deny the petition and the opportunity to request a public hearing on the proposal will be announced concurrently in the Federal Register and in newspapers of general circulation in the affected area. At least 45 days notice will be given before any hearing that may be held.

**ADDRESS:** Written comments, requests for hearing and data should be sent to Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270, ATTN: 6W-SG, Louisiana Aquifer Designation.

**FOR FURTHER INFORMATION CONTACT:** Erlece Allen, Water Supply Branch, at the above address or telephone (214) 767-2774. Copies of the petition are available upon request.

**SUPPLEMENTARY INFORMATION:** Section 1424(e) of the Safe Drinking Water Act (P.L. 93-523) authorizes the Administrator of the Environmental Protection Agency (EPA) to determine that an area has an aquifer which is the sole or principal drinking water source for the area. The Capital-Area Groundwater Conservation Commission (CAGCC), Baton Rouge, Louisiana, has requested the Administrator to determine that the aquifers (Pleistocene to Miocene in age) in southeastern Louisiana and southwestern Mississippi are the sole or principal drinking water source for that area. The petitioned area includes East Baton Rouge, East Feliciana, Pointe Coupee, West Baton Rouge, West Feliciana, Livingston, St. Helena, St. Tammany, Tangipahoa and Washington parishes in Louisiana and extends into adjacent Mississippi counties to the north and east. These Mississippi counties include, at least in part, Wilkinson, Amite, Pike, Walthall, Marion, Pearl River, and Hancock. Information is solicited about the petitioned area's hydrogeologic system including the surface boundary of its recharge area and about the number and kinds of small entities (businesses, governmental jurisdictions, and organizations) receiving Federal financial assistance in the area. This will assist EPA in evaluating the aquifer system and the potential impact of a designation on small entities pursuant to the Regulatory Flexibility Act requirements. Based on our experience with another sole source designation, Federal financially assisted projects that potentially may be affected include highway construction projects, subdivision construction, and waste disposal sites.

EPA will decide whether to grant the CAGCC request following its review of all relevant data and after providing for full public participation on its proposed decision.

The Office of Management and Budget has exempted this notice from the OMB review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order.

Dated: August 10, 1981.

Frances E. Phillips,

*Acting Regional Administrator (6A).*

[FR Doc. 81-26374 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-38-M

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[OPP-30203; PH-FRL-1931-4]

## Mobay Chemical Corp.; Receipt of Application To Register Pesticide Product Containing New Active Ingredient

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Mobay Chemical Corp. has submitted an application to register the pesticide product USTILAN TECHNICAL, containing the new active ingredient *N*-[5-(ethylsulfonyl)-1, 3, 4-thiadiazol-2-yl]-*N'N'*-dimethylurea

**DATE:** Written comments must be received by October 13, 1981.

**ADDRESS:** Written comments to: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office

of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:**
Robert J. Taylor (703–557–7066).

**SUPPLEMENTARY INFORMATION:** This notice announces that Mobay Chemical Corp., Agricultural Chemicals Div., 1140 Connecticut Ave., Suite 604, Washington, D.C. 20036, has submitted an application to register the pesticide product USTILAN TECHNICAL, containing 95 percent of the new active ingredient *N*-[5-(ethylsulfonyl)-1, 3, 4-thiadiazol-2-yl]-*N'N'*-dimethylurea. The application proposes that the herbicide be registered for use in the manufacture of economic poisons. The product has been assigned EPA File Symbol Number 3125–GGA.

This application is made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (92 Stat. 819; 7 U.S.C. 136), and the regulations thereunder (40 CFR 162.6). Notice of receipt of an application does not indicate a decision by the agency on the application.

Notice of approval or denial of this application to conditionally register the pesticide product will be announced in the Federal Register. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other scientific information deemed relevant to the registration decision may be made available after approval, under provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the Federal Register if an application is approved.

Interested persons are invited to submit written comments on this application. Comments may be submitted and inquiries directed to the product manager. The comments must be received on or before October 13, 1981, and should bear a notation indicating the document control number "[OPP–C30203]" and the File Symbol Number. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: August 31, 1981.

Douglas D. Campt,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 81-26373 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-32-M

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[EN-FRL-1930-5]

## Steel Industry Compliance Extension Act of 1981; Availability of Information

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Availability.

**SUMMARY:** On July 17, 1981 the President approved Pub. L. 97–23, the Steel Industry Compliance Extension Act of 1981. The provisions of the Act are self-executing and no implementing regulations are required. EPA has prepared a document which describes information which might be appropriate for inclusion in an application, advises various parties of the manner in which EPA intends to handle materials designated as confidential, and outlines the overall procedures by which EPA intends to implement the Act. This document is available to the public.

**ADDRESS:** Interested persons may obtain a copy of this letter by request to: Michael Alushin, Office of Enforcement Policy (EN–329), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 755–0658.

**FOR FURTHER INFORMATION CONTACT:**
Michael Alushin (EN–329), Office of Enforcement Policy, Environmental Protection Agency, 401 M Street SW. Washington, D.C. 20460 (202) 755–0658.

Dated: September 1, 1981.

William A. Sullivan, Jr.,

*Deputy Associate Administrator for Enforcement Policy.*

[FR Doc. 81-26375 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-33-M

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[OPP-31051; PH-FRL-1931-7]

## Certain Pesticide Products; Receipt of Applications To Register Pesticide Products Entailing a Changed Use Pattern

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces that certain companies have submitted applications to register pesticide products entailing a changed use pattern.

**DATE:** Written comments must be received on or before October 13, 1981.

**ADDRESS:** Written comments to: the product manager cited in each specific petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:**
The product manager cited in each specific petition at the telephone number provided.

**SUPPLEMENTARY INFORMATION:** EPA gives notice that certain companies have submitted applications to register pesticide products entailing a changed use pattern. Notice of receipt of these applications does not indicate a decision by the agency on the applications. These applications are made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (92 Stat. 819; 7 U.S.C. 136), and the regulations thereunder (40 CFR 162.6).

EPA File Symbol 3125–GGL. Mobay Chemical Corp., Agricultural Chemicals Div., 1140 Connecticut Ave., Suite 604, Washington, DC 20036. Product Name: USTILAN 70 Percent Wettable Power, containing 70 percent of the active ingredient *N*-[5-(ethylsulfonyl)-1,3,4-thiadiazol-2-y1]-*N,N*-dimethylurea. The application proposes that the herbicide be registered for general use to control unwanted vegetation in non-crop areas such as railroad and utility rights-of-way, around farm and industrial structures, tank farms, fence rows, airports, and highways. (PM 25, Robert J. Taylor, 703–557–7066).

EPA File Symbol 538–RAA. OM Scotts & Sons Co., Marysville, OH 43041. Product Name: HOUSE PLANT INSECT SPRAY, containing 0.01 percent of the active ingredient fenvalerate. The application proposes that the insecticide be registered for general use for indoor control of insects. (PM 17, Franklin D. R. Gee, 703–557–7028).

EPA File Symbol 1021–RUTT. McLaughlin Gormley King Co., 8810 Tenth Avenue North, Minneapolis, MN 55427 Product Name: Evercide Intermediate, containing 0.2 percent of the active ingredient Tetramethrin [(1-cyclohexene-1,2-dicarboximido)(methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate]; 0.4 percent of the active ingredient fenvalerate; and 14.278 percent of petroleum distillate. The application proposes that the product be registered for general use for outdoor control of insects. (PM 17, Franklin D. R. Gee, 703–557–7028).

Interested persons are invited to submit written comments on these applications. Comments may be

submitted and inquires directed to the product manager. The comments must be received on or before October 13, 1981, and should bear a notating indication the document control number "[OPP-31051]" and the file symbol number. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: August 31, 1981.

Douglas D. Campt,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 81-26366 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-32-M

## Epoxy Urethane Copolymer; Approval of Test Marketing Exemption

[OPTS-59058A; TSH-FRL-1931-6]

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** EPA received an application from the Celanese Corporation for a test marketing exemption (TM-81-26) under section 5 of the Toxic Substances Control Act (TSCA) on July 17, 1981. Notice of receipt of the application was published in the Federal Register of August 3, 1981 (46 FR 39470). EPA has granted the exemption.

**EFFECTIVE DATE:** This exemption is effective on August 31, 1981.

**FOR FURTHER INFORMATION CONTACT:** Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-229, 401 M St., SW., Washington, D.C. 20460, (202-426-0503).

**SUPPLEMENTARY INFORMATION:** Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) required each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements of certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On July 17, 1981, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-81-26. The manufacturer is the Celanese Corporation. The generic chemical identity is "epoxy urethane copolymer." The use of the substance is claimed confidential business information. A notice published in the Federal Register of August 3, 1981 (46 FR 39470) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-81-26 under the conditions set out in the application and in this notice, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. There were no significant health or environmental concerns for the TME substance. There was some concern that chronic exposure to residual component monomers might lead to liver and kidney damage. However, levels of residual monomers are sufficiently low, and exposure is sufficiently limited by the use of a closed reactor ad personal worker protective devices, that the concern is not significant. During manufacture, processing and industrial use, a maximum of 290 workers may be exposed to the TME substance for a maximum of eight hours per day. There will be no consumer exposure to the TME substance in its final form. Environmental hazards and exposures will be extremely low under the specified conditions of disposal.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application, and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the three customers as specified in the application, and of the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. The production volume of the new substance may not exceed the quantity of 2,000 kg described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a 6-month period commencing on the date of signature of this notice by the Administrator.

5. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: August 31, 1981.

John E. Daniel,

*Acting Administrator.*

[FR Doc. 81-26376 Filed 9-9-81; 8:45 am]

BILLING CODE 6560-31-M

## FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 81-604 File No. BPH-801027AV; BC Docket No. 81-605 File No. BP-810204AM]

## Donally Robert Eddy, et al.; Applications for Consolidated Hearing

Adopted: August 14, 1981.

Released: August 31, 1981.

In re applications of Donally Robert Eddy and Thomas P. Taggart, d.b.a. Seven Ranges Radio Company, St. Marys, West Virginia, Req: 101.7 MHz,

Channel 269, 3 kW (H), 300 Feet, Req: 1570 kHz, 1 kW, Day, For Construction Permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications for new AM and FM broadcast stations.

2. Thomas P. Taggart, 50-percent partner in Seven Ranges, previously held a one-third interest in an application for a new FM station in Zanesville, Ohio (Muskingum Broadcasting Company, BPH-10,747). In a comparative hearing on that application, issues were added to determine whether Taggart had the requisite character qualifications to be a Commission licensee. *Memorandum Opinion and Order,* FCC 81M-725, Mimeo No. 07980 (ALJ, released March 12, 1981). Muskingum subsequently requested dismissal of its application due to withdrawal of one of its investors, and its request was granted. *Order,* FCC 81M-1685, Mimeo No. 001568 (ALJ, released June 2, 1981). Since the character questions remain unresolved, these applications must be set for hearing to resolve them and determine whether Taggart, and hence Seven Ranges, is qualified to become a Commission licensee.

3. Section 73.1125 of the Commission's rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. Seven Ranges proposes to locate its main studio at the site of its transmitter on Greens Run Road, 0.6 miles south of the St. Marys city limits. Seven Ranges states that this site is 1,000 feet off State Highway #16, and that it is "actually more convenient than a downtown location because the narrow streets in the main business district do not provide for much parking." If its FM application is granted, we agree that the applicant has provided good cause for locating its main studio outside its city of license.

4. Finally, the applicant's local notice of the filing of its AM application did not describe the proposed antenna, as required by Section 73.3580 of the Commission's Rules. It must, therefore, republish a corrected notice. The applicant is otherwise qualified to construct and operate as proposed.

5. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether Thomas P Taggart has attempted to extort a broadcast facility from a Commission licensee.

2. To determine whether Thomas P. Taggart has undertaken to obtain an ownership interest in a broadcast station or stations other than in Zanesville, Ohio, and St. Marys, West Virginia, and to conceal such interests from the Commission.

3. To determine whether Thomas P Taggart abused the Commission's processes by filing a petition for rulemaking and drafting an opposition thereto which he sought to have another party file.

4. To determine, in light of the evidence adduced under one or more of the foregoing issues, whether Seven Ranges Radio Company has the requisite qualifications to become a Commission licensee.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the applications should be granted.

6. It is further ordered, That the Broadcast Bureau proceed with initial presentation of evidence with respect to issues 1 through 3, and that Seven Ranges Radio Company then proceed with its evidence and has the burden of establishing that it possesses the requisite qualifications to become a Commission licensee and that grant of its applications would serve the public interest, convenience, and necessity.

7 It is further ordered, That Seven Ranges Radio Company shall publish a corrected local notice of its AM application and file a statement of notice with the presiding Administrative Law Judge October 20, 1981.

8. It is further ordered, That in the event the FM application is granted, § 73.1125 of the Commission's rules is waived to allow Seven Ranges Radio Company to locate its main studio on Greens Run Road, 0.6 miles south of the city limits of St. Marys, West Virginia.

9. It is further ordered, That in the event both applications are granted, each will be subject to the condition that if the Commission ultimately adopts a rule prohibiting commonly owned AM and FM stations in the same market, Seven Ranges Radio Company will divest itself of either the AM or the FM station in accordance with the requirements established in such rulemaking proceeding.

10. It is further ordered, That to avail itself of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's rules, the applicant shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in tripilicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

11. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicant shall give notice of the hearing within the time and in the manner prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

*Acting Chief Broadcast Facilities Division.*

[FR Doc. 81-26338 Filed 9-9-81; 8:45 am]

BILLING CODE 6712-01-M

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**[BC Docket No. 81-606 File No. BP-20,202]**

## GSM Media Corp., Application for Hearing

Adopted: August 17, 1981.

Released: September 3, 1981.

In re application of GSM Media Corporation, Ontario, Ohio, Req: 1440 kHz, 1 kW, DA, Day, for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned application, a petition to deny it filed by Greater Mansfield Broadcasting Company (GMBC), licensee of WCLW and WCLW-FM, Mansfield, Ohio, and numerous pleadings filed by the parties.[1]

2. Because the proposed station would compete with WCLW and WCLW-FM for listeners and revenue, GMBC has standing as a party in interest within the meaning of Section 309(d)(1) of the Communications Act of 1934, as amended. *FCC* v. *Sanders Bros. Radio Station,* 309 U.S. 470 (1940).

3. Petitioner alleges that: (a) GSM's proposal would involve overlap with other stations' contours prohibited by Section 73.37(a) of the Commission's Rules; (b) the proposed directional array is unstable and the site unsuitable; (c) the proposal does not satisfy the principal-city coverage requirements of § 73.24(j) of the Rules; (d) the proposal must realistically be viewed as one for nearby Mansfield, Ohio; and (e) a

[1] In addition to applicant's amendments, the parties here have already filed almost fifty substantive pleadings and letters. In the interest of administrative efficiency and because these pleadings are (with some exceptions) repetitious, they will not be treated individually. Further, both parties have filed motions for extension of time to file various pleadings. These motions are hereby granted, and the oppositions to them denied.

minority stockholder is the real party in interest in the application.

4. *Prohibited overlap.* Most of the voluminous pleadings in this case involve a dispute about the location of the 0.025 mV/m contour of co-channel station WPGW, Portland, Indiana. Petitioner claims it would overlap GSM's proposed 0.5 mV/m contour (or even GSM's transmitter site), in violation of § 73.37(a) of the Rules. Applicant maintains it will not. Both parties support their contentions with measurements made on the 80° radial from WPGW, but they disagree on measurement locations, techniques, and analysis. We are unable to resolve their differences on the basis of the record they have generated, and must therefore designate the GSM application for hearing.

5. Petitioner also alleges other violations of § 73.37(a) by (a) overlap of the proposed 0.025 mV/m contour with the 0.5 mV/m contour of co-channel station WHHH, Warren, Ohio, and (b) possible overlap of the proposed 0.5 mV/m contour and the 0.5 mV/m contours of first-adjacent-channel stations WCLT, Newark, Ohio, and WJER, Dover-New Philadelphia, Ohio. We have independently analyzed all pertinent data, including field strength measurements submitted, and conclude that there would be no prohibited overlap with WHHH, WCLT, or WJER.

6. *Antenna stability and site suitability.* Staff studies of GSM's proposed directional antenna show that it is inherently sensitive to minor parameter variations.[2] Computerized stability studies show, for example, that with parameter variations as small as 0.5-percent current ratio deviation and 0.5° phase deviation, radiation would exceed the specified standard radiation values. (Our benchmarks are 1%/1° for generally stable arrays and 0.1%/0.1° for highly unstable arrays; between these extremes we consider arrays on a case-by-case basis. See *Home Service Broadcasting Corp.*, 68 FCC 2d 1135 (1978).)

7 But a determination of stability also involves consideration of factors external to an array. Thus petitioner's assertion that the proposed transmitter site is unsuitable because of the proximity of potential reradiating objects (*e.g.*, the WVNO–FM antenna tower and a high-voltage transmission line) takes on special significance. Considering all these factors, we are unable to determine that the proposed array can be adjusted and maintained within the proposed standard pattern, and must therefore specify an appropriate issue.

8. *Principal-city coverage.* GMBC contends that the proposed 5 mV/m contour would not cover all of Ontario's residential areas. Petitioner also says that the 25 mV/m contour would not cover the town's main business area; it faults applicant's 25 mV/m showing for relying on FCC Figure M3 conductivities rather than conductivities indicated by its own measurements on a nearby radial, and for augmenting the contour by a proximity effect not recognized by the Commission's Rules.

9. With respect to 25 mV/m coverage, Figure M3 provides the best available evidence of conductivity toward that part of the business district where coverage is in dispute, since the measured contour in question lies too far to the south. In any event, even assuming GMBC's arguments were correct, a majority of Ontario's business district would receive 25 mV/m service, constituting substantial compliance with Section 73.24(j). *Allegan County Broadcasters*, 25 FCC 1083 (1958). GSM's proposed residential coverage likewise substantially complies with Section 73.24(j), since all but about one percent of Ontario's area would receive 5 mV/m service. *Broadcast Station Assignment Standards*, 39 FCC 2d 645, 670 (1973).

10. *Suburban community.* Petitioner next questions whether the applicant realistically intends to serve Ontario rather than its larger neighbor, Mansfield, and whether Ontario even qualifies as a separate community for purposes of Section 73.1120(a) of our rules.[3] In support, GMBC describes Ontario as a bedroom community less than one-tenth Mansfield's size,[4] with no separate Chamber of Commerce or telephone system, and its principal retail area a regional shopping center. GSM counters that Ontario is an incorporated community with its own elected government, police, zoning board, and school system. And with over 7,000 jobs and substantial industrial activities, applicant disputes characterizing Ontario as a mere bedroom community. The activities GSM cites adequately establish Ontario's qualifications as a licensable community under our liberal standards (see *Teche Broadcasting Corp.*, 52 FEE 2d 970 (Rev. Bd. 1975)), particularly in light of petitioner's general and essentially conclusory showing. We therefore turn to the question of whether applicant realistically proposes to serve Ontario.

11. GSM's proposed transmitter and main studio are to be roughly in the center of the Ontario Village limits. The power proposed is only one kilowatt, well below the maximum for a class III station. The directional antenna would direct the dignal southeastward, toward Mansfield, because of stringent protection requirements to the north and (particularly) the west. As indicated earlier, 25 and 5 mV/m service to Ontario would substantially comply with the rules. On the other hand, the 25 mV/m contour would fall short of downtown Mansfield, and the 5 mV/m contour would not serve that city's northern and northeastern residential areas. Ontario and Lexington (a small, adjacent community GSM also proposes to serve) are discussed in detail in applicant's ascertainment report, but Mansfield is not. The community leaders GSM consulted include many with Mansfield addresses (in addition to Ontario leaders), but virtually all of them represented organizations whose activities would reasonably be considered area-wide, not limited to the central city. On balance, then, we find no substantial question that this is not a bona fide proposal for Ontario.

12. *Real party in interest.* GMBC also argues that GSM is merely a front for Johnny Appleseed Broadcasting Co. (JAB), licensee of FM station WVNO, Mansfield, Ohio, who is the real party in interest. In support of this charge, petitioner notes that (a) the president and 80-percent shareholder of GSM, Gunther Meisse, also owns 20.5 percent of JAB and is president and general manager of WVNO; (b) JAB is 20-percent shareholder of the applicant; (c) GSM has an agreement with JAB that calls for co-location of studios with WVNO, co-management of the stations by Meisse, the advancing of some initial operating expenses of JAB, and location of applicant's transmitter site on land it will later buy from JAB; and (d) JAB principals and employees performed some services for GSM.

13. Real-party-in-interest questions arise when there is an undisclosed connection or understanding relating to ownership or control between the applicant and the party in question. Thus petitioner's argument is clearly frivolous, since there is no evidence that GSM has concealed any significant aspect of its relationship to JOB; GMBC's vague conjecture to the contrary is wholly unsubstantiated. The size of JAB's interest in GSM alone requires us to consider JAB a principal

[2] Petitioner also questioned the stability of GSM's antenna. But since it did so more than eight months after the deadline for pleadings set by the Chief, Broadcast Facilities Division, we rely here solely on our staff's independent findings.

[3] In relevant part § 73.1120(a) provides that "each AM . . broadcast station will be licensed to the principal community or other political subdivision which it primarily serves."

[4] The 1980 Census showed Ontario to have 4,123 residents and Mansfield 53,927.

whose qualifications must be and were reviewed. Beyond that, its activities and commitments on behalf of GSM appear reasonable things for a substantial shareholder to do. Therefore, no further consideration of these matters in hearing is required.

14. *Other matters.* Commission study reveals that applicant's standard pattern plot does not contain all the information required by § 73.150 of the rules (*e.g.*, tower placement, current ratios, and tower phasings). An appropriate amendment is required.

15. In view of the foregoing, the Commission is unable to find that grant of this application would serve the public interest, convenience, and necessity, and is of the opinion that it must be designated for hearing on the issues specified below. Except as indicated by these issues, the applicant is qualified to construct and operate as proposed.

16. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communication's Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the proposed operation would cause contour overlap with station WPGW, Portland, Indiana, in violation of § 73.37(a) of the Commission's Rules.

2. To determine whether the proposed antenna system can be adjusted and maintained within the proposed limits of radiation.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the application would serve the public interest, convenience, and necessity.

17 It is further ordered, That the petition to deny filed by Greater Mansfield Broadcasting Company is granted to the extent indicated above, and is denied in all other respects, and the Greater Mansfield Broadcasting Company is made a party to the proceeding.

18. It is further ordered, That GSM Media Corporation shall file the amendment specified in paragraph 14 above on or before October 13, 1981 is published in the Federal Register.

19. It is further ordered, That in the event of a grant of this application, the construction permit shall contain the following conditions:

An antenna monitor of sufficient accuracy and repeatability, and having a minimum resolution of 0.1 degree phase deviation and 0.1 percent sample current deviation, shall be installed and continuously available to indicate the relative phase and magnitude of the sample currents of each element in the array, to insure maintenance of the radiated fields within the authorized values of radiation.

Upon receipt of operating specifications and before issuance of a license, permittee shall submit the results of observations made daily of the base currents and their ratios, relative phases, sample currents and their ratios, and sample current ratio deviations for each element of the array, along with the final amplifier plate voltage and current, the common point current, and field strengths of each monitoring point for both nondirectional and directional operations for a period of at least 30 days, to demonstrate that the array will be maintained within the specified tolerances.

If the Commission ultimately adopts a rule prohibiting commonly owned AM and FM stations in the same market, permittee will divest itself of its AM station or sever its relationship with WVNO(FM), Mansfield, Ohio, in accordance with the requirements established in such rulemaking proceeding.

20. It is further ordered, That to avail themselves of the opportinity to be heard and pursuant to § 1.221(c) and (e) of the Commission's rules, the parties shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

21. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicant shall give notice of the hearing as specified in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission

Larry D. Eads,

*Acting Chief Broadcast Facilities Division.*

[FR Doc. 81-26337 Filed 9-9-81; 8:45 am]

BILLING CODE 6712-01-M

## Manuel A. Cabranes, et al., Applications for Consolidated Hearing

**[BC Docket No. 81-601 File No. BP-801231AB et al.]**

Adopted: August 14, 1981.

Released: September 1, 1981.

In re Applications of Manuel A. Cabranes, Simi Valley, California. Req: 670 kHz, 1 kW, DA-1, U BC Docket No. 81-601 File No. BP-801231AB; Radio Representatives, Inc., Santa Ynez, California. Req: 660 kHz, 1 kW, 10 kW-LS, DA-2, U BC Docket No. 81-602 File No. BP-810210AE; Sidney King, KCIN, Victorville, California. Has: 1590 kHz, 500 W, Day. Req: 670 kHz, 1 kW, DA-N, U. For Construction Permit BC Docket No. 81-603 File No. BP-810309AS.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for an AM broadcast station.

2. *Manuel A. Cabranes.* Analysis of the financial portion of Cabranes' application reveals that at least $100,234 will be required to construct the proposed station and operate for three months, itemized as follows:

| | |
|---|---|
| Equipment down payment | $5,560 |
| Equipment payments | 28,704 |
| Construction-period leases | 1,700 |
| Other construction costs | 36,000 |
| Operating costs | 28,270 |
| Total | $100,234 |

However, it does not appear that the applicant has provided for a modulation monitor EBS equipment, an antenna monitor, a sampling system, or transmission lines, so costs may be higher.

3. Cabranes plans to finance his station with $101,000 of existing capital, of which $10,000 is identified only as Commonwealth of Puerto Rico General Obligation Bonds. Applicant has not, however, specifically identified these securities, indicated the market or exchange on which they are traded, or established their current market value. Cabranes has also failed to segregate the current portion of his long-term liabilities. A limited financial issue must therefore be specified.

4. *Radio Representatives, Inc.* Analysis of the financial portion of this application reveals that $55,898 will be required to construct the proposed station and operate for three months, itemized as follows:

| | |
|---|---|
| Equipment down payment | $15,000 |
| Equipment payments | 8,305 |
| Construction-period leases | 408 |
| Other construction costs | 14,500 |
| Operating costs | 17,625 |
| Total | $55,898 |

5. Applicant plans to finance its station with $88,937 of existing capital and $15,000 in profits from other corporate activities. However, its balance sheet shows only $18,284 in net liquid assets, and the availability of cash flow from other operations has not been documented. A limited financial issue must therefore be specified.

6. *Sidney King.* King has not filed nighttime standard radiation patterns

for elevation angles from 5° to 60°, as required by Section 73.150 of the Rules. An amendment is required.

7 This applicant's local notice of his application failed to describe the antenna proposed, as required by § 73.3580(f)(5) of the Commission's rules. A corrected notice must be published.

8. *Other matters.* Neither Cabranes nor King has clearly shown the business district and city limits of his proposed city of license in relation to pertinent proposed service contours, as required by Question 12A of section V–A, FCC Form 301. Consequently, we are unable to determine either proposal's compliance with § 73.24(j) of the Commission's rules. Appropriate issues will be specified.

9. Although the three proposals are for different communities, the Cabranes proposal would serve substantial areas in common with the other two. Consequently, in addition to an issue to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

10. Except as indicated by the issues specified below, all three applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidatd proceeding.

11. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to Manuel A. Cabranes:

a. Whether the applicant has provided for the cost of all necessary equipment in his estimate of construction costs;

b. The source and availability of sufficient funds to meet anticipated costs; and

c. Whether in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

2. To determine with respect to Radio Representatives, Inc.:

a. The source and availability of sufficient funds to meet anticipated costs; and

b. Whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine whether the proposal of Manuel A. Cabranes would provide coverage of Simi Valley, California, as required by § 73.24(j) of the Commission's rules, and if not, whether circumstances exist which warrant waiver of that rule.

4. To determine whether the proposal of Sidney King would provide coverage of Victorville, California, as required by § 73.24(j) of the Commission's Rules, and if not, whether circumstances exist which warrant waiver of that rule.

5. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

6. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

7 To determine, in the event it be concluded that a choice among the applications should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

8. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

12. It is further ordered, That Sidney King shall file the amendment specified in paragraph 6 above on or before October 13, 1981.[1]

13. It is further ordered, That Sidney King shall republish local notice of his application as required by § 73.3580 of the rules, and shall file a statement of publication with the presiding Administrative Law Judge on or before October 26, 1981.

14. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's rules, the applicants shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

15. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in the rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

*Acting Chief, Broadcast Facilities Division.*

[FR Doc. 81-26333 Filed 9-9-81; 8:45 am]

BILLING CODE 6712-01-M

[1] All three applicants have been requested by predesignation letter to file certain environmental information about their proposals. If they have not yet done so, they must file that information within the specified time.

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[BC Docket No. 81-607 File No, BPCT-800926KE and BC Docket No. 81-608 File No. BPCT-801208KF]

## Satellite Broadcasting Co. and TV 52 Broadcasting Inc.; Applications for Consolidated Hearing

Adopted: August 20, 1981.

Released: September 2, 1981.

1. The Commission, by Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Satellite Broadcasting Company (SBC) and TV 52 Broadcasting, Inc. (TV–52) for authority to construct a new commercial television broadcast station on Channel 52, Oklahoma City, Oklahoma; a motion for leave to accept an amendment filed by TV–52 and related pleadings.

2. The proposed towers for SBC and TV–52 are to be located 1.74 miles from the non-directional tower of AM radio Station KBYE, Oklahoma City, Oklahoma. Because of the proximity of the proposed towers to KBYE, any grant of a construction permit to either SBC or TV–52 will be conditioned to ensure that KBYE's radiation pattern is not adversely affected by the construction of either of the proposed stations.

3. *TV 52 Broadcasting, Inc.* TV–52 filed an amendment to its application and a motion to accept the amendment. This amendment was received on February 20, 1981, one day after the last date for filing amendments as of right. Counsel for TV–52 delivered the amendment to an air freight carrier on February 18, 1981, one day prior to the cutoff date and, according to affidavits from employees of the carrier, the carrier acknowledged receipt of the package and guaranteed next day delivery at Commission offices in Washington. Due to weather conditions, the aircraft was unable to maintain its schedule and filing of the amendment was delayed until February 20, 1981. The competing applicant, Satellite Broadcasting Company (SBC), opposed acceptance of this amendment, stating that TV–52, in arranging for delivery of the amendment, should have anticipated that weather conditions frequently cause shipping delays. SBC also stated that TV–52 should not be permitted to rely on a guarantee of next day delivery from a private delivery service. SBC objected to the acceptance of those

portions of the amendment which might improve TV–52's comparative qualifications.

4. Section 73.3522(a)(2) of the Commission's Rules provides that amendments of applications made after the cutoff date, but prior to designation for hearing, will be considered only on a showing of good cause for late filing. SBC does not dispute that TV–52 acted in good faith and that it did not attempt to subvert the protections afforded to both the public and to competing applicants by the cutoff rule. This case, therefore, is different from *American Broadcasting Cos., Inc.*, 45 RR 2d 1671 (1979), in which a petitioner alleged that its petition to deny a renewal application had been sent to the Commission by "Express Mail" at 8:00 p.m., P.S.T. and therefore should have been delivered the next day. The petitioner's reliance on "Express Mail" was misplaced, the Commission stated, because "Express Mail" does not guarantee next day delivery unless the item is posted before 5:00 p.m. local time. The Commission held that the petition was late filed and considered it as an informal objection. TV–52 has documented that its reliance on the carrier's guarantee was not misplaced and that the delay was due to circumstances beyond the control of both the applicant and the carrier. Therefore, TV–52 has shown good cause for late filing pursuant to § 73.3522(a)(2) of the Commission's Rules.

5. The amendment changes portions of TV–52's application which might improve its comparative qualifications. The issue presented is whether a predesignation amendment which was not received by the Commission by the cutoff date due to circumstances beyond the applicant's control should be accepted nunc pro tunc, as timely filed as a matter of right, thereby allowing the applicant to possibly improve its comparative position. Generally, applicants are not "allowed to amend their applications in a manner which will improve their comparative positions after the pre-hearing period allowed for filing amendments as a matter of right has expired." *Mid-Florida Television Corp.*, 76 FCC 2d 158, 163 (1980). This policy against the pre-designation amendments which may alter an applicant's comparative status is based, in part, on the need for "an early stabilization of the comparative factual situation which must ultimately go to hearing." *Revised Procedures for the Processing of Contested Broadcast Applications.* 72 FCC 2d 202, 209 (1979).

6. Prior Commission decisions support the acceptance of the amendment. In *Baker-Smith Communications Co.*, 67 FCC 2d 548 (1978), *recons. denied sub nom, George E. Cameron Jr. Communications*, 7 FCC 2d 460, 462–63 (1978), an application was challenged as not substantially complete when filed. The applicant documented that the airline transporting the application from California to Washington inadvertently lost the original application in transit. An incomplete version was filed on the last day for filing but omitted significant portions and a complete application was filed seven days after the cutoff date. The Commission stated, "We therefore, will not hold the applicant responsible for a delivery error by the airline," and held that the applicant "did submit a substantially complete application" by the cutoff date. *Id.* at 552. In *Gareth E. Garlund and Anna White Garlund*, 68 FCC 2d 1382, *recons. denied*, 69 FCC 2d 2006 (1978), a petition to deny was challenged as not complete because, when filed on the cutoff date, it lacked the requisite supporting affidavit. The affidavit was filed one day late; the delay was caused by a printer who lost the affidavit on the cutoff date. Under these circumstances and because the late filing did not prevent the applicant from responding to the petition, the Commission, citing *Baker-Smith Communications*, stated, "[W]e will not hold the applicant responsible for a delay that was beyond its control." *Id.* at 1383. TV 52's reasonable reliance on the carrier's guarantee of next day delivery and the documentation of the carrier's inability to deliver, shows that it, like the applicant in *Baker-Smith Communications*, was not responsible for the delay.

7 In *Pacific Broadcasting Corp.*, 68 FCC 2d 845 (1978), a petition for reconsideration was received by the Commission after the close of business on the last day for filing, due to a delay at the Washington airport. In accordance with Commission rules, the petition was not accepted until the following day and was dismissed because "the filing was not timely under the statutory mandate of Section 405 of the Act," *id.* at 847, which establishes the time within which petitions for reconsideration must be filed. The Commission continued, "Parties waiting until the last day to effect delivery of pleadings from out-of-town by common carrier run a considerable risk that unforeseen delay will render their pleadings untimely." *Id. Pacific Broadcasting* can be distinguished because the pleading in that case was received after the expiration of the filing period established by statue. Thus, the Commission was without jurisdiction to entertain the late filed petition for reconsideration. In the instant case, the amendment was received after the expiration of the filing period set by § 73.3522(a)(2) of the Commission's Rules which, unlike the statute, provides for the acceptance of amendments received after the deadline date on a showing of good cause. Since TV–52, like the applicant in *Baker-Smith Communications and the petitioner in Gareth F Garlund*, did not contravene or subvert the policies which support the cutoff rule and did not nullify the protections afforded by that rule, we accept TV–52's entire amendment nunc pro tunc and will consider it a timely filed amendment.

8. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals, would on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

10. It is further ordered, That, in the event of a grant of either Satellite Broadcasting Company's application or TV–52 Broadcasting, Inc.'s application, the construction permit shall contain the following condition:

Prior to construction of the TV tower authorized herein, permittee shall notify AM Station KBYE so that station may determine operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the aforementioned AM station. Subsequent to construction of the TV tower and installation of all appurtenances thereon, antenna impedance measurements of the AM antenna shall be made and sufficient field strength measurements, obtained at at least 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional and, the results submitted to the Commission in application for the AM station to return to the direct method of power determination. Thereafter, the TV station may commence *Limited Program Tests.*

11. It is further ordered, That TV-52's motion to accept its amendment is granted.

12. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, That the applicant herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

*Acting Chief, Broadcast Facilities Division, Broadcast Bureau.*

[FR Doc. 81-26340 Filed 9-9-81; 8:45 am]

BILLING CODE 6712-01-M

## Tucson Telecasting, Inc. et al., Applications for Consolidated Hearing

**[Docket No. BPCT-800905KE et al.]**

Hearing Designation Order

Adopted: August 20, 1981.

Released: August 31, 1981.

In re Applications of Tucson Telecasting, Inc., Tucson, Arizona, BC Docket No. 81-609 File No. BPCT-800905KE; Alden Communications Corp., Tucson, Arizona, BC Docket No. 81-611 File No. BPCT-1121KF; Roman Catholic Church of the Diocese of Tucson, Tucson, Arizona, BC Docket No 81-610 File No. BPCT-801121KE; for Construction Permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new comercial television broadcast station on Channel 18, Tucson, Arizona; and informal objection filed by the Federal Aviation Administration against the application of the Roman Catholic Church of the Diocese of Tucson (Diocese), and a Petition for Leave to Amend filed by the Diocese on May 18, 1981.[1]

2. The FAA has filed an informal objection to the grant of the Diocese's application alleging that operation from the proposed transmitter site may cause interference from spurious radiation to FAA facilities on Mount Lemon. Since then, however, the FAA and the Diocese have reached an agreement by which FAA would withdraw its objection and Diocese would accept a condition to a grant of a construction permit to it limiting interference threshold levels at the input to FAA's communications facilities to -4 dBm for spurious frequencies and requiring Diocese to take corrective action to resolve any radio frequency interference (RFI) to FAA's Mount Lemon facilities resulting from the operation of Channel 18. Accordingly, any grant of a construction permit to Diocese will be appropriately conditioned and FAA's informal objection will be dismissed.

3. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exlusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

5. It is further ordered, That, in the event of a grant of the Roman Catholic Church of the Diocese of Tuscon's application, the construction permit will be conditioned as follows:

Permittee shall insure that the Channel 18 signals do not exceed the following levels at the input to Federal Aviation Administration communication receivers located on Mt. Bigelow:

(a) Channel 18 fundamental frequencies-4 dBm,

(b) Channel 18 spurious frequencies-104 dBm.

Permittee shall notify the Federal Aviation Administrations regional frequency engineering office at least 10 days prior to the start of any testing with radiated signals from Channel 18 and shall promptly take such resonable corrective measures as may be required to resolve any RFI problems resulting from the operation of Channel 18.

6. It is further ordered, That FAA's informal objection is dismissed.

7. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

8. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission

Larry D. Eads,

*Acting Chief, Broadcast Facilities Division, Broadcast Bureau.*

[FR Doc. 81-26336 Filed 9-9-81; 8:45 am]

BILLING CODE 6712-01-M

[1] The amendment accompanying the petition documents an agreement between the Diocese and the FAA to remove FAA's objection to Diocese's application. Acceptance of the amendment will not prejudice the rights of any party and will obviate the need to specify an issue regarding the Diocese's transmitter site. Therefore, good cause having been demonstrated, Dioceses's petition is granted and the accompanying amendment is accepted.

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Board of Visitors for the National Fire Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-462), announcement is made of the following committeee meeting:

Name: Board of Visitors for the National Fire Academy

Dates of meeting: October 5-6, 1981

Place: Conference Room J-203, National Emergency Training Center, 16825 S. Seton Avenue, Emmitsburg, MD 21727

Time: 9 a.m. to 5 p.m.

Proposed agenda: October 5, 1981: Update: on July briefing; presentation of program plans for fiscal year 1982; review of program for fiscal year 1981; and such other items that may come before the Board. October 6, 1981: Uncompleted agenda items; gathering of any additional information required for the preparation of the annual report; and administrative items.

The meeting will be open to the public. Members of the general public who plan to attend the meeting should contact Mr. Clarence E. White, Jr., National Emergency Training Center,

16825 S. Seton Avenue, Emmitsburg, Maryland 21727 (telephone: 301/447/6771) on or before September 25, 1981.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Office of the Associate Director for Training and Education, Emmitsburg, Maryland. Copies of the minutes will be available upon request 30 days after the meeting.

Date: September 3, 1981.

Fred J. Villella,

*Associate Director for Training and Education, Federal Emergency Management Agency, National Emergency Training Center.*

[FR Doc. 81-26335 Filed 9-9-81; 8:45 am]

BILLING CODE 4210-23-M

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[FEMA-645-DR]

## Nevada; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Nevada (FEMA-645-DR), dated August 28, 1981, and related determinations.

**DATED:** August 28, 1981.

**FOR FURTHER INFORMATION CONTACT:** Sewall H.E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0520.

**NOTICE:** Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency delegation of authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of August 28, 1981, the President declared a major disaster as follows:

The damage in certain areas of the State of Nevada resulting from severe storms and flooding beginning on or about August 10, 1981, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Nevada.

In order to provide Federal assistance to individuals and families, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. However, pursuant to section 408(b) of PL 93-288, you are authorized to advance to the State its 25 percent share of the individual and family grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. F. Scott Martin of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the State of Nevada to have been affected adversely by this declared major disaster.

Clark County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83-300, Disaster Assistance. Billing Code 6718-02.)

John E. Dickey,

*Acting Associate Director, State and Local Programs and Support Federal Emergency Management Agency.*

[FR Doc. 81-26333 Filed 9-9-81; 8:45 am]

BILLING CODE 4210-23-M

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## FEDERAL HOME LOAN BANK BOARD

[No. AC-133]

## Sooner Federal Savings and Loan Association, Tulsa, Okla., Final Action Approval of Conversion Applications

Dated: September 4, 1981.

Notice is hereby given that on August 28, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 81-493 approved the application of Sooner Federal Savings and Loan Association, Tulsa, Oklahoma ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 120 East 6th Street, Topeka Kansas.

By the Federal Home Loan Bank Board.

J. J. Finn,

*Secretary.*

[FR Doc. 81-26450 Filed 9-9-81; 8:45 am]

BILLING CODE 6720-01-M

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## FEDERAL MARITIME COMMISSION

## Ace Shipping Co. et al., Intent to Cancel

The domestic offshore files of the Federal Maritime Commission contain numerous tariffs which have been classified as inactive either due to the absence of any tariff changes for a period of one year or longer; because the Commission's staff has been unable to contact the tariff filers at the addresses shown on the tariffs; or, because the Commission's staff has been advised that the tariff filers no longer offer a common carrier service. The tariff publications of the following carriers, including their last known addresses, fall into the inactive tariff category:

Ace Shipping Co. Inc., Suite 203, 1200 Biscayne Boulevard, Miami, Florida 33132; FMC-F No. 1

Alexander & Associates, 112 Erie Avenue, Seattle, Washington 98122; FMC-F No. 2

Alltrans Alaska Freight, Inc., 650 South Othello Street, Seattle, Washington 98108; FMC-F No. 1

American International Shipping Co., Suite 914, 677 Ala Moana Boulevard, Honolulu, Hawaii 96813; FMC-F No. 7

Australia-Far East Shipping, Inc., 2302 East Del Amo Boulevard, Compton, California 90220 FMC-F No. 1

Barton Export Boxing Corp., Maracibo Street, Building 19 C-D, Port Newark, New Jersey 07114; FMC-F No. 1

Bestway Express Transport, 156 Ellison Street, Paterson, New Jersey 07505; FMC-F No. 1

Bestway Express Transport, 156 Ellison Street, Paterson, New Jersey 07505; FMC-F No. 2

Cargomatic Express, Inc., 8440 S. W. 107 Avenue, Miami, Florida 33173; FMC-F No. 1

Caribbean Steamship Corp., San Miquel Building, Suite 312, Kennedy Avenue—KM. 2.5 P.O. Box 4423, San Juan Industrial Development, San Juan, Puerto Rico 00905; FMC-F No. 1

Caribe Cargo Services, Inc., 6331 N. W. 74th Avenue, Miami, Florida 33166; FMC-F No. 1

CMC Ocean Freight Express, Post Office Box 4035, Carolina, Puerto Rico 00630; FMC-F No. 2

Coastal Barge Lines, Inc., 834 West Nickerson Street, Seattle, Washington 98111; FMC-F No. 3

Consolidated Freight Forwarders, Inc., 2792 N. W. 24th Street, Miami, Florida 33142; FMC-F No. 1

Container Marine Transport, Inc., 90 West Street, New York, New York 10006; FMC-F No. 3

Container Marine Transport, Inc., 90 West Street, New York, New York 10006; FMC-F No. 4
Dillingham Pacific Lines, Inc., Post Office Box 3288, Pier 24, Honolulu, Hawaii 96801; FMC-F No. 1
Drake Motor Lines, Inc., 20 Olney Avenue, Cherry Hill, New Jersey 08002; FMC-F No. 4
Gaynar Shipping Corporation, One World Trade Center, New York, New York 10048; FMC-F No. 1
The Great Norwegian Trading Company, 3578 East 11th Avenue, Hialeah, Florida 33013; FMC-F No. 1
Guam Fast Freight, 744 Naakea Place, Honolulu, Hawaii 96825; FMC-F No. 1
Guam Marianas Freight, 300 Market Street, Oakland, California 94607; FMC-F No. 1
Gulf Caribbean Marine Lines, Inc., Post Office Box 3110, Jacksonville, Florida 32203; FMC-F No. 2
Husky Barge Lines, 3115 Mt. View Drive, Anchorage, Alaska 99503; FMC-F No. 3
International Marine Transport Services, Inc., Post Office Box 7667, St. Thomas, Virgin Islands 00801; FMC-F No. 2
International Marine Transport Services, Inc., Post Office Box 3272, Old San Juan, Puerto Rico 00904; FMC-F No. 3
Inter-Ports Service, Inc., Post Office Box 475, St. Just, Puerto Rico 00750; FMC-F No. 4
Inter-Ports Service, Inc., Post Office Box 475, St. Just, Puerto Rico 00750; FMC-F No. 5
Island Transport Services, Inc., Post Office Box 970, Christiansted, St. Croix, Virgin Islands 00820; FMC-F No. 1
Key Warehouse Corp., 3629 N. W. 60th Street, Miami, Florida 33142; FMC-F No. 3
La Grande Shipping Co., Inc., 520 Paterson Plank Road, Jersey City, New Jersey 07307; FMC-F No. 1
Loux & Sons Drayage, 200 3rd Street, Oakland, California 94607; FMC-F No. 3
Malabe Shipping Co., Inc., 45 Bergen Street, Brooklyn, New York 11201; FMC-F No. 4
Mercantile Freight Service, Inc., 2280 Alahao Place, Honolulu, Hawaii 96819; FMC-F No. 2
Pacific Hauling Service, Inc., 3579 East Cliff Drive, Salt Lake City, Utah 84117; FMC-F No. 2
Pan-American Express Co., Inc., 508 West 126th Street, New York, New York 10027; FMC-F No. 2
P.R.V.I. Consolidators Corp., 515 Gardner Avenue, Brooklyn, New York 11222; FMC-F No. 1
Rodriguez Trucking, Inc., 515 Marcy Avenue, Brooklyn, New York 11206; FMC-F No. 2
Sause Bros. Ocean Towing Co., Inc., Suite 1480 Lloyd Building, 700 N. E. Multnomah Street, Portland, Oregon 97232; FMC-F No. 7
Seaway Distribution Corporation, Post Office Box 30505, Honolulu, Hawaii 96819; FMC-F No. 2
Thru Island Express, Inc., 63-69 Hook Road, Bayonne, New Jersey 07002; FMC-F No. 2
Transcaribbean Consolidated Freight Co., 264 40th Street, Brooklyn, New York 11220; FMC-F No. 1
Trans-Freight, Inc., Post Office Box 522458, Miami, Florida 33152; FMC-F No. 1
Unifreight Corporation, G.P.O. Box 6001, San Juan, Puerto Rico 00936; FMC-F No. 2
Vanleigh Transport Corp., Post Office Box 3680, Carolina, Puerto Rico 00630; FMC-F No. 1
West India Line, Post Office Box 10355, 153 East Port Road, West Palm Beach, Florida 33404; FMC-F No. 4.

Inactive tariffs reflect inaccurate information to the shipping public and serve no useful purpose in the Commission's files. In addition, 46 CFR 531.3(p)(2), requires the cancellation of inactive tariffs. Accordingly, the Commission proposes to cancel the above listed tariffs in the absence of a showing of good cause as to why they should not be cancelled.

Now, therefore it is ordered, That the above carriers advise the Director, Bureau of Tariffs at 1100 L Street, NW., Washington, D.C. 20573, on or before October 13, 1981, of any reason why the Commission should not cancel inactive tariffs;

It is further ordered, That a copy of this Order be sent by registered mail to the last known address of the carriers listed herein;

It is further ordered, That the tariffs of all carriers named herein not responding to this Order will be cancelled.

It is further ordered, That this notice be published in the Federal Register and a copy thereof filed with any tariff cancelled pursuant to this notice.

By the Commission pursuant to authority delegated by section 4.06 (Revised October 26, 1979) of Commission Order No. 201.1 (Revised) dated June 30, 1975.

Daniel J. Connors,

*Director, Bureau of Tariffs.*

[FR Doc. 81-26329 Filed 9-9-81; 8:45 am]

BILLING CODE 6730-01-M

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[Agreements Nos. T-3984 and T-3985]

## Availability of Findings of No Significant Impact

Upon completion of environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decisions on the proposed actions listed below will not constitute major Federal actions significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparatioon of environmental impact statements is not required.

Agreement No. T-3984 is a preferential assignment arrangement between the Port of Seattle (Seattle) and Orient Overseas Container Line, Ltd. (OOCL) whereby Seattle assigns to OOCL 6 acres of land within Terminal 18/20 for container storage and operations as well as grants to OOCL the right to use berths 3, 4, 5 or 6 at Terminal 18 and certain container handling equipment.

Agreement No. T-3985 is between the Port of Seattle (The Port) and Seacon Terminals (ST). Under the terms of the agreement, The Port leases to ST 23.10 acres of land located at The Port's Terminal 25 including ship's berth of some 1,580 feet in length with apron and container handling facilities. The lessee has been occupying Terminal 42/46 and will simply shift to Terminal 25 where it will continue the same operations as at Terminal 46.

The Findings of No Significant Impact (FONSI) will become final on or before September 21, 1981 unless petitions for review are filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessments are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

*Secretary.*

[FR Doc. 81-26330 Filed 9-9-81; 8:45 am]

BILLING CODE 6730-01-M

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## FEDERAL RESERVE SYSTEM

## Allied Bancshares, Inc.; Acquisition of Bank

Allied Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Pasadena National Bank, Pasadena, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 5, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 3, 1981.
William W. Wiles,
*Secretary of the Board.*
[FR Doc. 81-26438 Filed 9-9-81; 8:45 am]
BILLING CODE 6210-01-M

## J.P Morgan & Co. Inc.; Acquisition of Bank

J.P Morgan & Co. Incorporated, New York, New York, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirectly 99 per cent of the voting shares of Morgan Bank (Delaware), Wilmington, Delaware, through its subsidiary, Morgan Holdings Corp., Wilmington, Delaware. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 5, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 3, 1981.
William W. Wiles,
*Secretary of the Board.*
[FR Doc. 81-26439 Filed 9-9-81; 8:45 am]
BILLING CODE 6210-01-M

## Midlantic Overseas Ltd., Corporation to Do Business

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Midlantic Overseas Ltd., Edison, New Jersey. Midlantic Overseas Ltd., would operate as a subsidiary of Midlantic National Bank, West Orange, New Jersey. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 5, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summerize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 3, 1981.
William W. Wiles,
*Secretary of the Board.*
[FR Doc. 81-26440 Filed 9-9-81; 8:45 am]
BILLING CODE 6210-01-M

## Morgan Holdings Corp., Formation of Bank Holding Company

Morgan Holdings Corp., Wilmington, Delaware, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 99 per cent or more of the voting shares of Morgan Bank (Delaware), Wilmington, Delaware. The factors that are considered in acting on the application are set forth in section (c) of the Act (12 U.S.C. 1842(c)).

Morgan Holdings Corp., Wilmington, Delaware, has also applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4 (b)(2) of the Board's Regulation Y 12 CFR 225.4(b)(2)), for permission to retain voting shares of Morgan Data Services Incorporated, Jersey City, New Jersey.

Applicant states that the subsidiary engages in the activities of mortgage servicing and providing bookkeeping or data processing services and storing and processing other banking, financial or related economic data, such as performing payroll, accounts receivable or payable, or billing services; all for the internal operations of the holding company and its subsidiaries. These activities would be performed from offices of Applicant's subsidiary in Jersey City, New Jersey. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentation of resources, decreased or unfair competition, conflicts of interests, unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 5, 1981.

Board of Governors of the Federal Reserve System, September 3, 1981.
William W. Wiles,
*Secretary of the Board.*
[FR Doc. 81-26441 Filed 9-9-81; 8:45 am]
BILLING CODE 6210-01-M

## NCNB International Banking Corporation; Establishment of U.S. Branch of a Corporation

NCNB International Banking Corporation, New York, New York, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Miami, Florida. NCNB International Banking Corporation operates as a subsidiary of North Carolina National Bank, Charlotte, North Carolina.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 5, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize

the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 3, 1981.

William W. Wiles,

*Secretary of the Board.*

[FR Doc. 81-26442 Filed 9-9-81; 8:45 am]

BILLING CODE 6210-01-M

### Southwest Florida Banks, Inc.; Acquisition of Bank

Southwest Florida Banks, Inc., Fort Myers, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The First Bank of Marco Island, N.A., a proposed new bank, to be located at a branch of First National Bank and Trust Company of Naples, Naples, Florida, a subsidiary of Southwest Florida Banks, Inc. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 5, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 3, 1981.

William W. Wiles,

*Secretary of the Board.*

[FR Doc. 81-26443 Filed 9-9-81; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Human Development Services

### White House Conference on Aging National Advisory Committee Meeting

The 1981 White House Conference on Aging National Advisory Committee was established by the Department of Health and Human Services to provide advice and recommendations to the Secretary of Health and Human Services and to the Executive Director of the 1981 While House Conference on Aging in the planning, conducting and reviewing of the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92-463, 5 U.S.C. App. 1, Section 10, 1976) that the National Advisory Committee will hold its next meeting on Thursday and Friday, September 24 and 25, 1981 from 9:00 a.m. to 5:00 p.m. each day. The meeting will be held in the East Ballroom of the Quality Inn at Pentagon City, 300 Army-Navy Drive, Arlington, Virginia 22202.

The purpose of the meeting will be to provide a means for the National Advisory Committee to make recommendations on the remaining procedural aspects of the 1981 White House Conference on Aging, scheduled to be held in Washington, D.C., November 29, 1981 to December 3, 1981.

In order to facilitate the development of recommendations, the National Advisory Committee will meet as subcommittees during part of this two day meeting. Subcommittees which have been established are as follows:

- Rules
- Awards
- International
- Private Sector
- Special Events

Further information on the Committee meeting may be obtained from Mr. David Rust, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, SW, Washington, D.C. 20201, telephone (202) 245-1914.

National Advisory Committee meetings are open to the public for observation.

Dated: September 3, 1981.

Mamie Welborne,

*Committee Management Officer.*

[FR Doc. 81-26410 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-92-M

### White House Conference on Aging National Advisory Committee; Rules Subcommittee Meeting

The 1981 White House Conference on Aging National Advisory Committee was established by the Department of Health and Human Services to provide advice and recomendations to the Secretary of Health and Human Services and to the Executive Director of the 1981 White House Conference on Aging in the planning, conducting and reviewing of the Conference. The Rules Subcommittee was established by the National Advisory Committee.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92-463, 5 U.S.C. App. 1, section 10, 1976) that the Rules Subcommittee will meet on Wednesday, September 23, 1981 in Room 303-A—305-A of the Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201 from 10:00 a.m. to 12:00 noon. They will discuss the written Conference rules which will be distributed to all delegates prior to the November meeting.

The recommendations of this Subcommittee will be presented to the National Advisory Committee for approval on the following day, September 24, when the full advisory committee meets.

Further information on the Rules Subcommittee meeting may be obtained from Ronald Wylie, Director, Office of Project Development, White House Conference on Aging, Room 4059, 330 Independence Avenue, SW, Washington, D.C., telephone (202) 755-8004.

The Rules Subcommittee meeting of the National Advisory Committee will be open to the public for observation.

Dated: September 3, 1981

Mamie J. Welborne,

*HDS, Committee Mgt. Officer.*

[FR Doc. 81-26411 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-92-M

### National Institutes of Health

### Advisory Committee to the Director, NIH; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, on October 1-2, 1981, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 8:30 a.m. to 5:30 p.m. on October 1, and from 8:30 a.m. to 4:30 p.m. on October 2, in Building 31, Conference Room 10, C Wing. The entire meeting will be open to the public.

The meeting will be devoted to an examination of reports prepared by the two working groups established under the aegis of the Committee: the Working Group on the Costs of Biomedical Research, and the Working Group on Cooperative Research Relationships with Industry. The Committee and working groups have been examining these issues in meetings held over the past year.

The report of the Working Group on the Costs of Biomedical Research will provide an analysis of various alternatives to the present system of allocating direct and indirect costs for research grants, including a Fixed-Obligation Grant, which replaces some features of the cost-reimbursement approach. Initiatives to reduce

regulatory requirements and to contain costs will also be considered.

The report of the Working Group on Cooperative Research Relationships will focus on patent policy guidelines for the NIH and its grantee institutions using as a basis OMB Bulletin 81-22, Implementation of Pub. L. 96-517, "The Patent and Trademark Amendments of 1980."

On the first day, the full Committee will convene briefly and then divide into two subcommittees with the DAC members assigned to one or the other of the working groups. For the remainder of the first day each of these subcommittees will discuss the issues raised in the respective working group reports and then prepare a set of recommendations for full Committee consideration to be held on the second day.

The Executive Secretary, Joseph G. Perpich, M.D., J.D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland 20205, 301-496-3152, will furnish summaries of the meeting, rosters of Committee members and guests, and substantive program information.

Dated: August 31, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26365 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, October 27, 1981, Conference Room 9, 6th Floor, C-Wing, Building 31, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on Tuesday, October 27, to evaluate program support in Arteriosclerosis, Hypertension, and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. G. C. McMillan, Associate Director, Arteriosclerosis, Hypertension and Lipid Metabolism Program, NHLBI, Room 4C-12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: September 2, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26364 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## Cardiology Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, October 19 and 20, 1981, in Conference Room A, Landow Building, National Institutes of Health, 7910 Woodmont Avenue, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunities.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Room 4A21, Building 31, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara Packard, M.D., Ph.D., Acting Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Room 320, Federal Building, Bethesda, Maryland 20205, phone (301) 496-5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Note.—NIH Programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: August 27, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26352 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, September 17,1981. The meeting will be held at the Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland 20205.

This meeting will be open to the public on September 17 from 8:30 a.m. to 12:30 p.m. when the Committee will discuss the status of new initiatives and the Ten Year Plan. Attendance by the public will be limited to space availabe.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on September 17 from 12:30 p.m. to adjournment for the review, discussion and evaluation of individual contract renewal proposals. The proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the propsals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 34, Room 4A21, National Institutes of Health, Bethesda, Maryland, 20205, phone (301) 496-4236, will provide summaries of meetings and rosters of committee members. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20205, phone (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Note—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: September 2, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26354 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## Epilepsy Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Epilepsy Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke, November 5-6, 1981, Room B119, Federal Building, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. to discuss research progress and research plans related to the Institute's epilepsy program. Attendance by the public will be limited to space available.

Dr. Roger J. Porter, Chief, Epilepsy Branch, Neurological Disorder Program, NINCDS (Federal Building, Room 114, National Institutes of Health, Bethesda, MD 20205; telephone 301/496-6691, will provide summaries of the meeting, rosters of the committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Neurological Disorders Program, National Institutes of Health)

Note.—NIH Programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: August 27, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26351 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## National Advisory Council on Aging; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, on October 14-16, 1981, in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. until 9:10 a.m. for opening remarks by the Director, National Institute on Aging and from 1:30 p.m. until approximately 5:30 p.m. on Wednesday, October 14. It will again be open to the public from 8:30 a.m. on Thursday, October 15, until adjournment on Friday, October 16. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 14, 1981 from approximately 9:10 a.m. until 12:30 p.m. for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Council Secretary, National Institute on Aging, Building 31, Room 2C-05, National Institutes of Health, Bethesda, Maryland 20205 (Area code 301, 496-5898), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: September 2, 1981.

Thomas E. Malone,

*Acting Director, NIH.*

[FR Doc. 81-26356 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## National Advisory Environmental Health Sciences Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, National Institute of Environmental Health Sciences, October 19-20, 1981, at the National Institute of Environmental Health Sciences, Building 101 Conference Room, Research Triangle Park, North Carolina.

This meeting will be open to the public on October 19, 1981, from 9 a.m. to approximately 12 noon for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 19, from approximately 1:00 p.m. to adjournment on October 20, 1981, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Leota B. Staff, Committee Management Officer, NIEHS, Building 31, Room 2B55, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-3511, will provide summaries of the meeting and rosters of council members.

Dr. Wilford L. Nusser, Associate Director for Extramural Program, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541-7723, FTS 629-7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.892, Prediction, Detection and Assessment of Environmentally Caused Diseases and Disorders; 13.893, Mechanisms of Environmental Diseases and Disorders; 13.894, Environmental Health Research and Manpower Development Resources, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: September 2, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26353 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## National Advisory General Medical Sciences Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on October 9 and 10, 1981, Building 31, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on October 9, 1981, from 9:00 a.m. to 12 noon for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public for approximately the last four hours of the day on October 9, 1981, and eight hours on October 10, 1981. It is estimated that the closed session will occur on October 9 from approximately 1:00 p.m. to 5:00 p.m., and on October 10, 1981, from 9:00 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the

discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Ellen Casselberry, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A12, Westwood Building, Bethesda, Maryland 20205, Telephone 301, 496-7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20205, Telephone: 301, 496-5231 will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13-821, Physiology and Biomedical Engineering; 13-859; Pharmacology-Toxicology Research; 13-862, Genetics Research; 13-863, Cellular and Molecular Basis of Disease Research; and 13-880, Minority Access to Research Careers (MARC))

Note.—NIH Programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: September 2, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26355 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## National Cancer Institute; Board of Scientific Counselors; Division of Resources, Centers, and Community Activities

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Resources, Centers, and Community Activities, National Cancer Institute, National Institutes of Health, October 22-23, 1981, Building 31C, Conference Room 6, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. on October 22 and from 8:30 a.m. to adjournment on October 23, to discuss the current and future programs of the Division of Resources, Centers, and Community Activities, as well as to review the program concepts of that Division. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of meetings and rosters of committee members upon request.

Dr. Robert G. Burnight, Executive Secretary, National Cancer Institute, National Institutes of Health, Blair Building, Room 3A01A, Silver Spring, Maryland 20910 (301/427-8630) will furnish substantive program information.

Dated: September 2, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26363 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## National Cancer Institute; Clinical Trials Committee; Cancelled Meeting

Notice is hereby given of the cancellation of the meeting of the Clinical Trails Committee, National Cancer Institute, National Institues of Health, October 13, 1981, which was published in the Federal Register on August 17, 1981, (46 FR 41564-5). For further information, please contract Dr. Gerald U. Liddel, Executive Secretary, National Cancer Institute, Westwood Building, Room 826, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7575).

Dated: September 2, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26361 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Diabetes Advisory Board on October 5, 1981, in Room 425-403A of the Hubert Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201. The meeting will be held at 9:00 a.m.

The meeting, which will be open to the public, is being held to continue review of the status and implementation of national diabetes programs. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Maryland 20814 (301) 496-6045, will provide a summary of the meeting and a roster of the committee members.

Dated: August 27, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26350 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## National Heart, Lung, and Blood Institute; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, November 5 and 6, 1981, National Institutes of Health, Building 10, Room 7N214. This meeting will be open to the public from 9:30 a.m. to 3:00 p.m. November 5 and from 9:30 a.m. to 12 noon on November 6 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematoglogic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 12 noon to adjournment November 6 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7N214, phone (301) 496-2116.

Dated: September 2, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26360 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## National Institute of Neurological and Communicative Disorders and Stroke; Board of Scientific Counselors; Meeting

Pursuant to the Pub. L. 92-463, notice is hereby given of the meeting of the

Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, November 12 and 13, 1981, in Conference Room 1B07, Building 36, Bethesda, MD 20205. This meeting will be open to the public from 9:30 a.m. to 5:00 p.m. on November 12 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:00 a.m. until the conclusion of the meeting on November 13 for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Ms. Sylvia Shaffer, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

The Executive Secretary from whom substantive program information may be obtained is Dr. Thomas N. Chase, Director, of intramural Research Program, NINCDS, Building 36, Room 5A05, NIH, Bethesda, MD 20205, telephone 301/496-4297

(Catalog of Federal Domestic Assistance program No. 13,356, National Institutes of health)

Dated: September 2, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26359 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## National Library of Medicine; Board of Regents and the Extramural Programs and Lister Hill Center and National Medical Audiovisual Center Subcommittees; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on October 29-30, 1981, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meetings of the Extramural Programs Subcommittee of the Board of Regents and the Lister Hill Center and National Medical Audiovisual Center Subcommittee on the preceding day, October 28, 1981, from 2:00 to 5:00 p.m., in the 5th-floor Conference Room of the Lister Hill Center Building, and from 2:00 to 5:00 p.m., in the 7th-floor Conference Room of the Lister Hill Center Building, respectively.

The meeting of the Board will be open to the public from 9:00 a.m. to 5:00 p.m. on October 29 and from 9:00 a.m. to 12:15 p.m. on October 30 for administrative reports and program discussions. The entire meeting of the Lister Hill Center and National Medical Audiovisual Center Subcommittee will be open to the public for a discussion of the status of the National Medical Audiovisual Center Programs, and a report on the October 5-6 meeting of the NLM Board of Scientific Counselors. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552(c)(4), 552(c)(6), Title 5, U.S. Code and section 10(d) of Pub L. 92-463, the entire meeting of the Extramural Programs Subcommittee on October 28 will be closed to the public, and the regular Board meeting on October 30 will be closed from 12:15 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: September 2, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26357 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on October 23 and 24, 1981 at the Hilton Hotel, San Francisco, California.

The entire meeting, from 8:30 a.m. to 5, will be open to the public. The Committee will discuss the current status of the Division of Lung Diseases' programs and Committee plans for fiscal year 1982, and review the first draft of the "Ten-year retrospective evaluation and five-year forward plan of the Division of Lung Diseases" in order to plan a course of action to meet a final deadline date of summer 1982. Attendance by the public will be limited to the space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Suzanne S. Hurd, Acting Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.828, Lung Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OBM Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular.

Dated August 27 1981.

Thomas E. Malone, Ph.D.,

*Deputy Director, NIH.*

[FR Doc. 81-26333 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## Sickle Cell Disease Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, October 19-20, 1981. The meeting will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland, Building 31, Conference Room 8, C-Wing. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program.

Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 4A21, (301) 496-4236, will provide summaries of the meeting and roster of the Committee members.

Clarice D. Reid, M.D., Chief, Sickle Cell Disease Branch, DBDR, NHLBI Federal Building, Room 504, (301) 496-6931, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: September 2, 1981.

Thomas E. Malone,

*Deputy Director, NIH.*

[FR Doc. 81-26362 Filed 9-9-81; 8:45 am]

BILLING CODE 4110-08-M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## Alaska National Petroleum Reserve; Tentative Parcel Selection for First Oil and Gas Lease Sale

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Tentative Parcel Selection for the First Oil and Gas Lease Sale in the National Petroleum Reserve in Alaska.

**FOR FURTHER INFORMATION CONTACT:**

Lee Barkow, Washington, D.C. (202) 343-6511.

Jerry Wickstrom, Anchorage, Alaska (907) 271-3632.

**SUPPLEMENTARY INFORMATION:** The lands described in this notice are parcels tentatively selected for the competitive oil and gas sale in Fairbanks, Alaska, on December 16, 1981, at the Travelers Inn, for lands in the National Petroleum Reserve in Alaska.

Pursuant to the Department of the Interior's Appropriations Act for Fiscal Year 1981 (Pub. L. 96-514) authorization was given to lease for oil and gas within the National Petroleum Reserve in Alaska (formerly the Naval Petroleum Reserve No. 4). The Appropriations Act specified that the lands will be leased by competitive procedures. On July 22, 1981, the proposed leasing regulations under 43 CFR Part 3130 were published in the Federal Register.

The Appropriations Act specifies that the previous studies which were conducted under sections 105 (b) and (c) of the Naval Petroleum Reserves Production Act of 1976, Pub. L. 94-258, fulfill and satisfy the requirements of the National Environmental Policy Act of 1969, for the first 2 million acres. The Final Environmental Assessment based on the existing data from these studies together with public, government, and industry comments will be available for reference at the Alaska Resources Library, Anchorage, Alaska, or through the Bureau of Land Management, NPR-A, 701 C Street, Box 13, Anchorage, Alaska 99513, on October 1, 1981.

The following 59 parcels are tentatively identified for offering in the first lease sale. These parcels were selected as having high oil and gas potential and comparatively minor environmental risk.

The final decision on selected parcels will be included in the detailed statement of sale which will be published at least 30 days before the sale date.

| Parcel No. | Umiat Meridian |
|---|---|
| 01 | T. 12 N., R. 1 E., all;<br>T. 11 N., R. 1 E., NW¼. |
| 02 | T. 11 N., R. 1 W., all. |
| 03 | T. 10 N., R. 1 W., all. |
| 04 | T. 12 N., R. 2 W., all. |
| 05 | T. 11 N., R. 2 W., all. |
| 06 | T. 12 N., R. 3 W., all. |
| 07 | T. 1 N., R. 2 W., all. |
| 08 | T. 2 S., R. 4 W.,<br>Sec. 1, N½,N½S½;<br>Sec. 2, NE¼, W½, N½SE¼, SW¼SE¼;<br>Secs. 3 to 9, inclusive;<br>Sec. 10, NE¼NE¼, W½NE¼, NW¼, N½SW¼;<br>Sec. 17, NW¼NE¼, NW¼;<br>Sec. 18, NE¼, W½, NE¼NE¼, W½SE¼.<br>T. 2 S., R. 5 W.,<br>Secs. 1 to 22, inclusive;<br>Sec. 23, NE¼, NW¼, N½SW¼, SW¼SW¼, N½SE¼;<br>Sec. 24, N½NE¼, NW¼;<br>Sec. 27, NE¼NW¼, W½NW¼;<br>Sec. 28, NE¼, W½, W½SE¼;<br>Secs. 29 to 30, inclusive;<br>Sec. 31, NE¼, W½, NE¼SE¼, W½SE¼;<br>Sec. 32, N½NE¼, NW¼, NW¼SW¼. |
| 09 | T. 2 N., R. 5 W., all. |
| 10 | T. 2 N., R. 6 W., all. |
| 11 | T. 1 N., R. 6 W., all. |
| 12 | T. 1 S., R. 6 W., all. |
| 13 | T. 2 S., R. 6 W., all. |
| 14 | T. 3 N., R. 7 W., all. |
| 15 | T. 1 N., R. 7 W., all. |
| 16 | T. 2 S., R. 7 W., all. |
| 17 | T. 3 N., R. 8 W., all. |
| 18 | T. 2 S., R. 8 W., SE¼;<br>T. 3 S., R. 8 W., N½;<br>T. 3 S., R. 9 W., all. |
| 19 | T. 3 N., R. 9 W., all. |
| 20 | T. 2 N., R. 10 W., all;<br>T. 3 N., R. 10 W., SW¼. |
| 21 | T. 2 N., R 11 W., all;<br>T. 3 N., R. 11 W., S½. |
| 22 | T. 3 N., R. 12 W., W½, SE¼;<br>T. 3 N., R. 13 W., all. |
| 23 | T. 2 N., R. 13 W., all. |
| 24 | T. 3 N., R. 14 W., all. |
| 25 | T. 2 N., R. 14 W., all. |
| 26 | T. 1 S., R. 15 W., all. |
| 27 | T. 1 N., R. 16 W., S½;<br>T. 1 S., R. 16 W., all. |
| 28 | T. 2 S., R. 16 W., all. |
| 29 | T. 1 N., R. 17 W., S½;<br>T. 1 S., R. 17 W., all. |
| 30 | T. 2 S., R. 17 W., all. |
| 31 | T. 5 N., R. 19 W., all. |
| 32 | T. 4 N., R. 19 W., all. |
| 33 | T. 4 N., R. 20 W., all.<br>T. 5 N., R. 20 W., S½. |
| 34 | T. 4 N., R. 21 W., all;<br>T. 5 N., R. 21 W., SE¼. |
| 35 | T. 5 N., R. 25 W., all;<br>T. 6 N., R. 25 W., S½. |
| 36 | T. 5 N., R. 26 W., all;<br>T. 6 N., R. 26 W., S½. |
| 37 | T. 5 N., R. 27 W., N½;<br>T. 6 N., R. 27 W., S½;<br>T. 5 N., R. 28 W., NE¼;<br>T. 6 N., R. 28 W., SE¼. |
| 38 | T. 7 S., R. 20 W., S½;<br>T. 8 S., R. 20 W., all. |
| 39 | T. 9 S., R. 19 W., NW¼;<br>T. 9 S., R. 20 W., all. |
| 40 | T. 8 S., R. 21 W., all. |
| 41 | T. 9 S., R. 21 W., all. |
| 42 | T. 10 S., R. 21 W., all. |
| 43 | T. 8 S., R. 22 W., all. |
| 44 | T. 9 S., R. 22 W., all. |
| 45 | T. 10 S., R. 22 W., all. |
| 46 | T. 11 S., R. 22 W., all. |
| 47 | T. 8 S., R. 23 W., all. |
| 48 | T. 9 S., R. 23 W., all. |
| 49 | T. 10 S., R. 23 W., all. |
| 50 | T. 11 S., R. 23 W., all. |
| 51 | T. 7 S., R. 24 W., all. |
| 52 | T. 8 S., R. 24 W., all. |
| 53 | T. 9 S., R. 24 W., all. |
| 54 | T. 7 S., R. 25 W., NE¼, S½;<br>T. 7 S., R. 26 W., S½. |
| 55 | T. 8 S., R. 25 W., all. |
| 56 | T. 7 S., R. 27 W., S½;<br>T. 8 S., R. 27 W., all. |
| 57 | T. 7 S., R. 28 W., all. |
| 58 | T. 8 S., R. 28 W., all. |
| 59 | T. 7 S., R. 29 W., all. |

Containing an aggregate of approximately 1,500,000 acres.

Dated: September 4, 1981.

Ed Hastey,

*Associate Director.*

[FR Doc. 81-26412 Filed 9-9-81; 8:45 am]

BILLING CODE 4310-84-M

[AR-034684]

## Arizona; Order Providing For Opening of Public Lands and National Forest Lands; Correction

In Federal Register Document 80-27949, appearing on page 60028, second column, in the issue of Thursday, September 11, 1980, the following changes are made:

(1) Under T. 6 N., R. 2 E., Section 27 is corrected to read "E½W½"; and

(2) Under T. 7 N., R. 2 E., add "Section 35, NW¼NW¼."

Dated: August 31, 1981

Mario L. Lopez,

*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 81-26384 Filed 9-9-81; 8:45 am]

BILLING CODE 4310-84-M

## Arizona; Classification of Public Lands for State Indemnity Selection

[Serial No. A 17000-F (partial)]

In Federal Register Document 81-24320 appearing on page 42356 of the issue for August 20, 1981, the following change should be made:

Under T. 14 S., R. 12 E., Section 35: Lots 1, 2, N½NW¼, SW¼NW¼, NW¼SE¼NW¼, SW¼SE¼NW¼, W½SW¼ should be Lots 1, 2, N½NW¼, SW¼NW¼, NW¼SE¼NW¼, SW¼SE¼NW¼, N½SW¼.

Dated: August 31, 1981.

W. K. Barker,

*District Manager.*

[FR Doc. 81-26386 Filed 9-9-81; 8:45 am]

BILLING CODE 4310-84-M

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[PHX 075438, etc]

## Arizona; Order Providing for Opening of Public Lands

1. In exchanges of lands made under the provisions of Section 8 of the Act of June 28, 1934 (49 Stat. 1272, as amended, 43 U.S.C. 315g), the following lands have been reconveyed to the United States under the serial numbers listed below:

Gila and Salt River Meridian, Arizona

*PHX 075438*

T. 1 N., R. 14 W.,
Sec. 36, N½, SW¼, NE¼SE¼.
T. 10 N., R. 12 W.,
Sec. 16, S½;
Sec. 32, SW¼;
Sec. 36, SW¼.
T. 4 N., R. 11 W.,
Sec. 2, S½NW¼, SW¼,NE¼.
T. 8 S., R. 31 E.,
Sec. 16, NE¼.

*PHX 075486*

T. 24 N., R. 20 W.,
Secs. 16, 32 and 36.
T. 24 N., R. 21 W.,
Sec. 2, S½;
Secs. 16, 32 and 36.
T. 25 N., R. 13 W.,
Sec. 32.
T. 25 N., R. 14 W.,
Sec. 2.

*PHX 075605*

T. 9 S., R. 28 E.,
Sec. 36, E½NE¼.
T. 10 S., R. 32 E.,
Sec. 32, W½W½.

*PHX 075606*

T. 10 S., R. 32 E.,
Sec. 32, E½W½, E½.

*PHX 075714*

T. 3 S., R. 1 E.,
Sec. 16, SE¼SE¼;
Sec. 32.

*PHX 075765*

T. 6 S., R. 26 E.,
Sec. 16.
T. 7 N., R. 11 W.,
Sec. 30, Lots 1, 2, 3, 4, E½W½, E½;
Sec. 31, Lots 1, 2, 3, 4, E½W½, SW¼SE¼;
Sec. 33, SE¼, W½;
Sec. 34, S½.
T. 7 N., R. 12 W.,
Sec. 22.

*PHX 076327*

T. 3 S., R. 1 E.,
Sec. 36, Lot 4.

*PHX 077466*

T. 8 S., R. 28 E.,
Sec. 2, N½, NW¼SW¼, SE¼, NE¼SW¼;
Sec. 16, N½, SW¼;
Sec. 36, Lots 1, 2, 3, 4, N½S½, N½.
T. 5 S., R. 24 E.,
Sec. 36, E½SE¼.
T. 8 S., R. 27 E.,
Sec. 36, N½, SE¼, N½SW¼.
T. 8 S., R. 29 E.,
Sec. 16.
T. 11 S., R. 27 E.,
Sec. 2, Lot 3.
T. 9 S., R. 27 E.,
Sec. 1, S½;
Sec. 12, N½;
Secs. 16, 32, 33 and 35;
Sec. 34, N½, SW¼, NW¼SE¼.
T. 10 S., R. 27 E.,
Sec. 6, N½SE¼, SW¼SE¼, S½NE¼;
Sec. 7, E½;
Sec. 18, E½;
Sec. 19, E½;
Sec. 36, S½.
T. 9 S., R. 28 E.,
Sec. 36, SW¼.
T. 11 S., R. 28 E.,
Sec. 36, W½.

*PHX 077713*

T. 24 N., R. 18 W.,
Secs. 3, 15 and 17;
Sec. 19, Lots 1, 2, E½NW¼, NE¼;
Sec. 21, N½;
Secs. 23 and 25;
Sec. 27, N½NE¼;
Sec. 31, Lots 1, 2, 3, 4, 5, N½NE¼, E½W½, NE¼SW¼.
T. 21 N., R. 19 W.,
Sec. 5;
Sec. 7, S½;
Sec. 17.
T. 23 N., R. 19 W.,
Secs. 21 and 23.
T. 21 N., R. 20 W.,
Sec. 1, N½;
Secs. 3 and 13.
T. 22 N., R. 20 W.,
Secs. 1 and 11;
Sec. 13, NE¼, NE¼NW¼, NW¼SW¼, S½SW¼;
Secs. 23 and 35.
T. 23 N., R. 20 W.,
Secs. 5, 7, 17, 19, 29 and 31.
T. 26 N., R. 20 W.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27 and 29;
Sec. 31, E½;
Sec. 33.
T. 26 N., R. 21 W.,
Sec. 1;
Sec. 3, SE¼;
Secs. 11, 13 and 23;
Sec. 25, N½, N½S½, N½SE¼SW¼.

*PHX 078040*

T. 6 S., R. 24 E.,
Sec. 32, E½NE¼.
T. 7 S., R. 29 E.,
Sec. 32, S½, NW¼, W½NE¼.
T. 8 S., R. 27 E.,
Sec. 2, S½.
T. 8 S., R. 28 E.,
Sec. 32, Lots 1, 2, 3, 4, N½S½, N½.
T. 9 S., R. 27 E.,
Sec. 31, E½.
T. 9 S., R. 28 E.,
Sec. 2.
T. 10 S., R. 27 E.,
Sec. 2, Lots 1, 2, 3, 4, S½N½, S½;
Sec. 36, NE¼, E½NW¼.

*PHX 078041*

T. 10 S., R. 28 E.,
Sec. 2;
Sec. 16, SE¼;
Sec. 32.
T. 10 S., R. 27 E.,
Sec. 16.
T. 9 S., R. 28 E.,
Sec. 16.
T. 8 S., R. 28 E.,
Sec. 13, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 17, NW¼NE¼, N½NW¼;
Sec. 18, S½NE¼, SE¼NW¼, E½SW¼.
T. 7 S., R. 28 E.,
Sec. 36, N½, SW¼, N½SE¼, SW¼SE¼.

*PHX 078421*

T. 3 S., R. 1 E.,
Sec. 16, S½NE¼, SW¼.

*PHX 078971*

T. 2 N., R. 7 W.,
Sec. 32, W½NE¼, NW¼.
T. 10 N., R. 10 W.,
Sec. 16, N½, NE¼SW¼.

*PHX 079594*

T. 10 S., R. 27 E.,
Sec. 32.
T. 10 S., R. 28 E.,
Sec. 16, N½, SW¼.
T. 8 S., R. 27 E.,
Sec. 3, SE¼SW¼.
T. 25 N., R. 14 W.,
Sec. 32, SW¼, NW¼NW¼.

*PHX 080147*

T. 40 N., R. 4 E.,
Sec. 36.
T. 40 N., R. 5 E.,
Sec. 32.

*PHX 080325*

T. 11 S., R. 31 E.,
Sec. 28, SW¼, S½NW¼;
Sec. 32, N½NE¼.

*PHX 080535*

T. 23 S., R. 28 E.,
Sec. 11, N½NW¼.

*PHX 080624*

T. 3 S., R. 1 E.,
Sec. 36, Lots 1, 2, 3, W½, W½E½.
T. 7 S., R. 3 E.,
Sec. 2, Lot 1, SE¼NE¼.

*PHX 080625*

T. 7 S., R. 1 E.,

Sec. 36, N½, W½SW¼, NE¼SW¼.
T. 8 S., R. 1 E.,
Secs. 2, 16, 32 and 36.

*PHX 080641*

T. 16 N., R. 10 W.,
Sec. 7, E½NE¼.
T. 20 N., R. 20 W.,
Sec. 35, NW¼, W½NE¼.
T. 22 N., R. 18 W.,
Sec. 11, NE¼, S½;
Sec. 13, W½NW¼.
T. 23 N., R. 19 W.,
Sec. 5, S½SW¼;
Sec. 9;
Sec. 11, NW¼NW¼;
Sec. 13, N½NW¼, NW¼NE¼.

*PHX 080835*

T. 9 S., R. 8 E.,
Sec. 2, SE¼, SE¼SW¼;
Sec. 11, NE¼NW¼, N½NE¼.

*PHX 080894*

T. 11 S., R. 27 E.,
Sec. 2, Lots 2 and 5 (formerly lot 4) and Lots 6 and 7 (formerly S½NW¼).
T. 11 S., R. 30 E.,
Sec. 1, Lots 3 and 4.

*PHX 080918*

T. 24 N., R. 21 W.,
Sec. 15, SW¼;
Sec. 23, E½NW¼, NE¼, S½;
Sec. 25, N½NE¼.

*PHX 081048*

T. 23 N., R. 19 W.,
Sec. 13, SW¼SW¼.
T. 24 N., R. 21 W.,
Sec. 35, W½SW¼, SE¼SW¼.

*PHX 081229*

T. 12 S., R. 29 E.,
Sec. 28, S½NW¼.
T. 14 S., R. 28 E.,
Sec. 16, SW¼SE¼.

*PHX 081290*

T. 16 N., R. 10 W.,
Sec. 7, SE¼, E½SW¼;
Sec. 19, NE¼.

*PHX 081765*

T. 5 N., R. 3 E.,
Sec. 1, SE¼NW¼, SE¼NE¼.

*PHX 083307*

T. 10 S., R. 27 E.,
Sec. 6, Lot 3.
T. 11 S., R. 27 E.,
Sec. 2, S½NE¼.
T. 11 S., R. 28 E.,
Sec. 2.

*PHX 083682*

T. 12 S., R. 30 E.,
Sec. 20, W½,
Sec. 28.
T. 14 S., R. 28 E.,
Sec. 16, SE¼SE¼.

*AR 03249*

T. 10 S., R. 28 E.,
Sec. 28. W½NE¼, NE¼SE¼, SE¼NW¼.

*AR 016117*

T. 12 S., R. 27 E.,
Sec. 22, S½S½;
Sec. 23, W½SW¼, NE¼SW¼, SE¼NW¼;
Sec. 27, NE¼NE¼, W½NE¼.
T. 12 S., R. 28 E.,
Sec. 5, Lots 1, 2, S½NE¼, SE¼.

*AR 031141*

T. 7 N., R. 7 W.,
Sec. 16.

*AR 035244*

T. 6 S., R. 8 E.,
Sec. 36, W½E½, Part E½E½ west of lands in Declaration of Taking No. Civ. 2319, Phx.

*AR 035850*

T. 17 N., R. 18 W.,
Secs. 19, 21, 27 and 29.
T. 17 N., R. 19 W.,
Sec. 25.

*A 2213*

T. 10 S., R. 28 E.,
Sec. 27, SW¼SW¼.

*A 2116*

T. 13 S., R. 31 E.,
Sec. 18, SE¼NW¼.

The areas described aggregate approximately 67,704 acres in Cochise, Coconino, Graham, Greenlee, Maricopa, Mohave, Pinal, Yavapai and Yuma counties.

2. The United States did not acquire the mineral rights on any of the lands described in paragraph 1 with the exception of the land described under Serial nos. PHX 081765, AR 077713, AR 031141, AR 035244, A 2213 and under Serial AR 03249 excepting an oil and gas reservation to the grantor.

3. Subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law, the lands described in paragraph 1 are hereby open to operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.), and the mineral leasing laws. All valid application received at or prior to September 18, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Bureau of land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–3706).

Mario L. Lopez,

*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 81–26383 Filed 9–9–81; 8:45 am]

BILLING CODE 4310–84–M

## Baker District Advisory Council, Public Meeting

A public meeting will be sponsored by the Baker District Bureau of Land Management at 7:30 p.m. Tuesday, September 15, 1981 at the Community Center, 2610 Grove, Baker, Oregon.

The meeting is designed to provide information, gain public understanding and receive public comment on the consultation efforts to date between the Baker District and the users of the public lands prior to updating the draft Ironside Rangeland Program Summary—Record of Decision. The meeting will also provide an opportunity for consultation exchange with any interest group or individual who may yet want to discuss specific resource subjects on specific grazing allotments. The importance of resource monitoring and BLM-public land users responsibility and accountability for future resource trends and achievement of proper resource management will be emphasized.

The meeting precedes the Baker District Advisory Council meeting to be held at 9:00 a.m. Wednesday September 16, 1981 at the Federal Building, Baker, Oregon. Significant public comment in the Tuesday evening meeting will be taken to the Wednesday Advisory Council meeting.

For additional information contact Gordon R. Staker, District Manager, Bureau of Land Management, Baker, Oregon, phone 503–523–6391, New Federal Building, Baker, Oregon 97814.

Dated: August 31, 1981.

Gordon R. Staker,

*District Manager.*

[FR Doc. 81–26382 Filed 9–9–81; 8:45 am]

BILLING CODE 4310–84–M

## Bureau; Change of Address

The current address of the building being occupied by the Bureau of Land Management, Colorado State Office is changed to read as follows: Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver, Colorado 80202.

This change is only to simplify the receiving of mail and will not affect filing periods, payments, applications or other documents which must still be timely filed in accordance with Title 43, Code of Federal Regulations, § 1821.2; 2–1; 2–2; and 1822.1; 1–1; 1–2.

George C. Francis,

*Acting State Director.*

[FR Doc. 81–26387 Filed 9–9–81; 8:45 am]

BILLING CODE 4310–84–M

## Colorado; Amendment to White River Management Framework Plan for Coal

Notice is hereby given in accordance with Pub. L. 94–579, Section 603 and 43 CFR Parts 3400 and 1601, that the Bureau

of Land Management, Craig District Colorado, has applied the coal unsuitability criteria through the land use planning process. The results of this application are available for public comment as the Draft White River Management Framework Plan Coal Amendment Environmental Assessment (Draft WRMFP Coal Amendment EA). A separate set of appendices contains the legal descriptions of the lands involved by proposed classifications.

Public comment is invited on this environmental assessment of the application of the unsuitability criteria. Copies of the Draft WRMFP Coal Amendment EA and legal description appendices are available on request from the Official BLM Contact listed below. Please indicate if the Draft WRMFP Coal Amendment EA only or the Draft WRMFP Coal Amendment EA and the legal description appendices are being requested.

Comments on the Draft WRMFP Coal Amendment EA must be received by October 30, 1981, in order to be considered in the Final WRMFP Coal Amendment EA. Please address comments to the Official BLM Contact listed below.

Official BLM Contact: David Bray, Coal Coordinator, Bureau of Land Management, 455 Emerson Street, P.O. Box 248, Craig, CO 81626; or telephone (303) 824-8261.

Francis E. Noll,

*Acting District Manager.*

[FR Doc. 81-26388 Filed 9-9-81; 8:45 am]

BILLING CODE 4310-84-M

## Oil and Gas Leasing; National Petroleum Reserve; Alaska Proposed Lease Form; Request for Public Comments

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Proposed Oil and Gas Lease Form.

**SUMMARY:** This proposed lease form sets forth the terms and conditions under which oil and gas leases will be issued for lands within the National Petroleum Reserve in Alaska.

A specific oil and gas lease form for the National Petroleum Reserve in Alaska is needed because the Solicitor, Department of the Interior, has determined that the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96-514), provides new and independent authority for oil and gas leasing within the National Petroleum Reserve in Alaska and that the provisions of the Mineral Leasing Act of 1920 (30 U.S.C. 188 *et seq.*) are not applicable to oil and gas leasing in the National Petroleum Reserve in Alaska. Proposed rulemaking for implementing this Act was published July 22, 1981 (46 FR 37725).

The proposed form is tailored after, and includes several of the terms and conditions of, Form 3120-1, Oil and Gas Lease (Competitive Public Domain Lands). These terms and conditions involve the Secretary of the Interior's discretionary authority in connection with the granting of oil and gas leases in the National Petroleum Reserve in Alaska.

Changes in the form may be required in order to mirror any changes made to the final rules as a result of the comments received.

The public is invited to submit written comments and suggestions for improvements of this proposed lease form.

**DATE:** Comments by October 9, 1981.

**ADDRESS:** Comments and suggestions should be sent to: Director (530), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 3559 at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Marcia E. Rohn, (202) 343-7753.

Robert F. Burford,

*Director.*

United States Department of the Interior, Bureau of Land Management

Oil and Gas Lease (National Petroleum Reserve in Alaska)

This Indenture of lease, entered into, as of , by and between the United States of America, through the Bureau of Land Management, hereinafter called lessor, and hereinafter called lessee, under, pursuant, and subject to the terms and provisions of the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96-514), hereinafter referred to as the Act, the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504), and to all reasonable regulations of the Secretary of the Interior now or hereafter in force when not inconsistent with any express and specific provisions herein, which are made a part hereof.

Witnesseth:

Sec. 1. *Rights of lessee.*—That lessor, in consideration of rents and royalties to be paid, and the conditions and covenants to be observed as herein set forth, does hereby grant and lease to lessee, subject to the terms of this lease, the exclusive right and privilege to drill for, mine, extract, remove, and dispose of all the oil and gas deposits, including helium gas, in or under the following-described tracts of land situated in the National Petroleum Reserve in Alaska: containing acres, more or less, together with the right to construct and maintain thereupon all works, buildings, plants, waterways, roads, telephone lines, pipelines, reservoirs, tanks, pumping stations, or other structures necessary to the full enjoyment thereof, for a period of years, and so long thereafter as oil or gas is produced in paying quantities; subject to any unit agreement heretofore or hereafter approved by the Secretary of the Interior, the provisions of said agreement to govern the lands subject thereto where inconsistencies with the terms of this lease occur.

Sec. 2. In consideration of the foregoing, lessee agrees:

(a) *Bonds.*—To maintain at all times the bond required by regulation prior to the issuance of the lease, except that where there has been an approved designation of operator or agent or approved operating agreement, an operator's bond of equal coverage may be substituted for the lessee's bond.

(b) *Operations.*—Not to enter upon the lands for purpose of exploring and developing the leased lands without first obtaining an approved surface use plan and/or permit to drill in accordance with the oil and gas operating regulations 30 CFR 221 and any notice, order or generalized instructions in effect at the time the application for surface use plan and/or permit to drill is filed.

(c) *Wells.*—(1) To drill and produce all wells necessary to protect the leased land from drainage by wells on lands not the property of lessor, or lands of the United States leased at a lower royalty rate, or as to which the royalties and rentals are paid into different funds than are those of this lease; or in lieu of any part of such drilling and production, with the consent of the Director of the Geological Survey, to compensate lessor, in full, each month for the estimated loss of royalty through drainage in the amount determined by said Director.

(2) At the election of lessee, to drill and produce other wells in conformity with any system of well spacing or production allotments affecting the field or area in which the leased lands are situated, which is authorized and sanctioned by applicable law or by the Secretary of the Interior.

(3) Promptly, after due notice in writing, to drill and produce such other wells as the Secretary of the Interior may reasonably require in order that the leased premises may be properly and timely developed and produced in accordance with good operating practice.

(d) *Rentals and royalties.*—To pay rentals and royalties in amount or value of production removed or sold from the leased lands as set forth above.

(1) It is expressly agreed that the Secretary of the Interior may establish reasonable minimum values for purposes of computing royalty on any or all oil, gas, natural gasoline, and other products obtained from gas, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by lessee, to posted prices, and to other relevant matters and, whenever

appropriate, after notice and opportunity to be heard.

(2) When paid in value, such royalties on production shall be due and payable monthly on the last day of the month next following the month in which produced. When paid in amount of production, such royalty products shall be delivered in merchantable condition on the premises where produced without cost to lessor, unless otherwise agreed to by the parties hereto, at such times and in such tanks provided by lessee as reasonably may be required by lessor, but in no case shall lessee be required to hold such royalty oil or other products in storage beyond the last day of the month next following the month in which produced nor be responsible or held liable for the loss or destruction of royalty oil or other products in storage from causes over which he/she has no control.

(3) Rentals or minimum royalties may be waived, suspended, or reduced; and royalties on the entire leasehold or any portion thereof segregated for royalty purposes may be reduced if the Secretary of the Interior finds that, for the purpose of encouraging the greatest ultimate recovery of oil or gas and in the interest of conservation of natural resources, it is necessary, in his judgment, to do so in order to promote development, or because the lease cannot be successfully operated under the terms fixed herein.

(e) *Payments.*—To make rental payments to the Alaska State Office, Bureau of Land Management. Production royalties and advance royalties shall be paid to the Royalty Management Program, United States Geological Survey, P.O. Box 5760, Denver, Colorado 80217 All remittances owing to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey. If there is no well on the leased lands capable of producing oil or gas in paying quantities, the lease shall terminate if the lessee fails to pay the annual rental in full on or before the anniversary date and such failure continues for more than 30 days after a notice of delinquent rental has been delivered to the lessee's record post office address.

(f) *Contracts for disposal of products.*—To file with the Regional Conservation Manager of the Geological Survey not later than thirty (30) days after the effective date thereof any contract or evidence of other arrangement for the sale or disposal of oil, gas, natural gasoline, and other products of the leased land: *Provided,* That nothing in any such contract or other arrangement shall be construed as modifying any of the provisions of this lease, including, but not limited to, provisions relating to gas waste, taking royalty in kind, and the method of computing royalties due as based on a minimum evaluation and in accordance with the Oil and Gas Operating Regulations.

(g) *Statements, plats, and reports.*—At such times and in such form as lessor may prescribe, to furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost; a plat showing development work and improvements on the leased lands; and a report with respect to stockholders, investments, depreciation, and costs.

(h) *Well records.*—To keep a daily drilling record, a log, and complete information on all well surveys and tests in a form acceptable to or prescribed by lessor of all wells drilled on the leased lands, and an acceptable record of all subsurface investigations affecting said lands, and to furnish them or copies thereof, to lessor when required. All information obtained under this paragraph, upon request of lessee, shall not be open to inspection by the public until the expiration of the lease.

(i) *Inspection.*—To keep open at all reasonable times for the inspection of any duly authorized officer of the Department, the leased premises and all wells, improvements, machinery, and fixtures thereon and all books, accounts, maps and records relative to operations and surveys or investigations on the leased lands or under the lease. All information obtained pursuant to any such inspection, upon request of lessee, shall not be open to inspection by the public until the expiration of the lease.

(j) *Diligence, prevention of waste, health and safety of workmen.*—To exercise reasonable diligence in drilling and producing the wells herein provided for unless consent to suspend operations temporarily is granted by lessor; to carry on all operations in accordance with approved methods and practices as provided in the Oil and Gas Operating Regulations, having due regard for the prevention of waste of oil or gas or damage to deposits or formations containing oil, gas, water, or other mineral deposits, for conservation of gas energy, for the preservation and conservation of the property for future productive operations and for the health and safety of workmen and employees; to plug properly and effectively all wells drilled in accordance with the provisions of this lease or of any prior lease or permit upon which the right to this lease was predicated before abandoning the same; to carry out at expense of lessee all reasonable orders of lessor relative to the matters in this paragraph, and that on failure of lessee so to do, lessor shall have the right to enter on the property and to accomplish the purpose of such orders at lessee's cost: *Provided,* That lessee shall not be held responsible for delays or casualties occasioned by causes beyond lessee's control.

(k) *Taxes and wages, freedom of purchase.*—To pay when due; all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, oil and gas produced from the lands hereunder, or other rights, property or assets of lessee; to accord all workmen and employees complete freedom of purchase, and to pay all wages due workmen and employees at least twice each month in the lawful money of the United States.

(l) *Equal Opportunity Clause.*—To comply with all provisions of E.O. No. 11246 of September 24, 1965, as amended, and the rules, regulations and relevant orders of the Secretary of Labor.

(m) *Certification of nonsegregated facilities.*—By entering into this lease, the lessee certifies that lessee does not and will not maintain or provide for lessee's employees any segregated facilities at any of lessee's establishments, and that lessee does not and will not permit lessee's employees to perform their services at any location, under lessee's control, where segregated facilities are maintained. The lessee agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this lease. As used in this certification, the term "segregated facilities" means, but is not limited to, any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. Lessee further agrees that (except where lessee has obtained identical certifications from proposed contractors and subcontractors for specific time periods) lessee will obtain identical certifications from proposed contractors and subcontractors prior to the award of contracts or subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that lessee will retain such certifications of lessa's files; and that lessee will forward the following notice to such contractors and subcontractors (except where the proposed contractor or subcontractor has submitted identical certifications for specific time periods).

*Notice to prospective contractors and subcontractors of requirement for certification of nonsegregated facilities.*—A Certification of Nonsegregated Facilities, as required by the May 9, 1967 order (32 FR 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a contract or subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity Clause. The certification may be submitted either for each contract and subcontract or for all contracts and subcontracts during a period (i.e., quarterly, semiannually, or annually).

(n) *Assignment of oil and gas lease or interest therein.*—As required by 43 CFR 3135, to file for approval by the lessor any instrument of transfer made of this lease or any interest therein, including assignments of record title, operating agreements and subleases within ninety (90) days from date of final execution thereof.

(o) *Pipelines to purchase or convey at reasonable rates and without discrimination.*—If owner, or operator, or owner of a controlling interest in any pipeline or of any company operating the same which may be operated accessible to the oil or gas derived from lands under this lease, to accept and convey and, if a purchaser of such products, to purchase at reasonable rates and without discrimination the oil or gas of the Government or of any citizen or company not the owner of any pipeline, operating a lease or purchasing or selling oil, gas, natural gasoline, or other products under the

provisions of the Act, under the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437, 30 U.S.C. Sec. 181 *et seq.*), or under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*).

(p) *Lands patented with oil and gas deposits reserved to the United States.*—To comply with all statutory requirements and regulations thereunder, if the lands embraced herein have been or shall hereafter be disposed of under the laws reserving to the United States the deposits of oil and gas therein, subject to such conditions as are or may hereafter be provided by the laws reserving such oil or gas.

(q) *Reserved or segregated lands.*—If any of the land included in this lease is embraced in a reservation or segregated for any particular purpose, to conduct oeprations thereunder in conformity with such requirements as may be made by the Director, Bureau of Land Management, for the protection and use of the land for the purpose for which it was reserved or segregated, so far as may be consistent with the use of the land for the purpose of this lease, which latter shall be regarded as the dominant use unless otherwise provided herein or separately stipulated.

(r) *Protection of the environment including the surface, other resources and improvements.*—To comply with the National Environmental Policy Act (83 Stat. 852; 42 U.S.C. 4321–4347), the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543) and other relevant statutes, the oil and gas leasing regulations (43 CFR 3130) and the Oil and Gas Operating Regulations (30 CFR 221).

(1) *General.*—Lessee shall take such steps as required by the drilling permit, the attached stipulations, or the authorized officer to prevent activities or operations on the leased lands from: (i) causing or contributing to soil erosion and/or thermal erosion or damage to vegetative cover on Federal or non-Federal lands in the vicinity; (ii) polluting soil, air, or water; (iii) creating hazards to wildlife or depriving them of the use of the natural elements of their habitat; (iv) disturbing the surface or damaging areas of scenic value or natural beauty; (v) damaging or removing improvements owned by the United States or other parties; (vi) destroying, damaging, or removing fossils, historic or prehistoric ruins or artifacts; (vii) damaging, injurying, or harming harvestable resources; or (viii) depriving rural or native residents access to harvestable resources. Lessee shall, prior to the termination of bond liability or at any other time when required and in the manner affected by lessor, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities incidental thereto, rehabilitate access roads or trails and remove structures. Lessor may prescribe, by stipulations to be subsequently included in this lease or through the authorized officer, the steps to be taken by lessee to protect or rehabilitate the environment both on and off the lands, and improvements thereon whether or not the improvements are owned by the United States.

(2) *Use of other resources.*—Mineral materials and water from public water reserves or water developed by the Bureau of Land Management or its lessees, licensees, or permittees, except water rights established under State law acquired by such lessees, licensees, or permittees, may be used only with advance authorization from and on terms and conditions imposed by the authorized officer.

(3) *Antiquities and objects of historic value*

(i) Lessee shall immediately bring to the attention of the authorized officer any and all American antiquities or other objects of historic or scientific interest including, but not limited to, historic or prehistoric ruins, fossils, or artifacts discovered as a result of operations under this lease, and to leave such item(s) or condition(s) intact. Failure to comply with any of the terms and conditions imposed by the authorized officer with regard to the preservation of antiquities shall constitute a violation of the Antiquities Act (16 U.S.C. 431–433).

(ii) If the authorized officer determines that archaeological values exist or may exist on the lands within the lease and that they might be impaired by oil and gas operations, lessee will engage a recognized authority on archaeology acceptable to the Bureau of Land Management to survey and salvage, in advance of any operations, such values on the lands involved. The responsibility for and cost of this survey and salvage will be that of lessee.

(4) *Pollution Control.*—Lessee agrees that this lease is subject to all relevant pollution control legislation at the Federal, State, or local level. Such legislation includes, but is not limited to, the Clean Air Act, as amended (77 Stat. 392; 42 U.S.C. 1857, *et seq.*), the Refuse Act of 1899 (30 Stat. 1152; 33 U.S.C. 407–409), the Federal Water Pollution Control Act (62 Stat. 1155; 33 U.S.C. 1151–1161).

(5) *Joint Use of Facilities.*—Lessee agrees to participate in joint use of airstrips and other infrastructure facilities where the lessor deems it necessary to insure adequate environmental protection.

(6) *Stipulations.*—To comply with stipulations attached hereto which are made a part of the lease or the approved Application for Permit to Drill.

(s) *Deliver premises in case of forfeiture.*—To deliver up to lessor in good order and condition the land leased including all improvements which are necessary for the preservation of producing wells.

Sec. 3. The lessor reserves:

(a) *Easement and rights-of-way.*—The right to permit for joint or several use easements or rights-of-way, as may be nesessary or appropriate to the working of the same or of other lands containing the deposits described in the Act, and the treatment and shipment of products thereof by or under authority of the Government, its lessees or permittees, and for other public purposes.

(b) *Disposition of surface.*—The right to lease, sell, or otherwise dispose of the surface of the leased lands under existing law or laws hereafter enacted or to dispose or any resource in such lands which will not unreasonably interfere with operations under the lease.

(c) *Monopoly and fair prices.*—Full power and authority to promulgate and enforce all orders necessary to assure the sale of the production of the leased lands to the United States and to the public at reasonable prices, to protect the interests of the United States, to prevent monopoly, and to safequard the public welfare.

(d) *Taking of royalites.*—All rights to take royalties in kind or in value of production.

(e) *Casing.*—All rights to purchase casing and lease or operate valuable water wells.

Sec. 4 *Drilling and producing restrictions.*—It is agreed tht the rate of exploring and developing and the quantity and rate or production from the lands covered by this lease shall be subject to control in the public interest by the Secretary of the Interior, and in the exercise of his judgment the Secretary may take into consideration, among other things, Federal and State laws, and regulations issued thereunder, or lawful agreements among operators regulating either drilling or production, or both. After unitization, the Secretary of the Interior, or any person, committee, or State or Federal officer or agency so authorized in the unit plan, may alter or modify, from time to time, the rate of exploring and development and the quantity and rate of production from the lands covered by this lease.

Sec. 5. *Surrender of lease.*—Lessee may surrender this lease in whole or in part by filing a written relinquishment, in triplicate, with the Bureau of Land Management's Alaska State Office, which shall be effective as of the date of filing, subject to the continued obligation of lessee and his surety to make payment of all accrued rentals and royalties and to place all wells on the land to be relinquished condition for suspension or abandonment in accordance with applicable lease terms and regulations. If the lease is partially relinquished, neither the relinquished lands nor the retained lands shall be less than one full section.

Sec. 6. *Purchase of materials, etc., on termination of lease.*—Upon expiration, termination or relinquishment of the lease, lessee shall have the privilege at any time within a period of one year thereafter of removing from the premises all machinery, equipment, tools, and materials other than improvements needed for producing wells. Any materials, tools, appliances, machinery, structures, and equipment subject to removal as above provided, which are allowed to remain on the leased land, shall become the property of lessor on expiration of the one year period or such extension thereof as may be granted because of adverse climatic conditions throughout said period; *Provided,* That lessee shall remove any or all such property where so directed by lessor.

Sec. 7. *Proceedings in case of default.*—If lessee shall not comply with any of the provisions of the Act or the regulations thereunder or of this lease, or shall make default in the performance or observance of any of the terms hereof, this lease may be canceled or terminated. This provision shall not be construed to prevent the exercise by lessor of any legal or equitable remedy which lessor might otherwise have. Upon cancellation or termination of this lease, any casing, material, or equipment determined by

the lessor to be necessary for use in plugging or preserving any well drilled on the leased land shall become the property of lessor. A waiver of any particular cause of cancellation or termination shall not prevent the cancellation or termination of this lease for any other cause of cancellation or termination, or for the same cause occuring at any other time.

Sec. 8. *Heirs and successors in interest.*—It is further agreed that each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrator, successors, or assigns of the respective parties hereto.

Sec. 9. *Unlawful interest.*—It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4(a)(1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of Sec. 3741 of the Revised Statutes of the United States, (41 U.S.C. Sec. 22) as amended, and Secs. 431, 432, and 433, Title 18 U.S.C., relating to contracts, enter into and form a part of this lease so far as the same may be applicable.

Sec. 10. *Special Stipulations.*—(a) Special stipulations deemed necessary and appropriate by the authorized officer for mitigating reasonably foreseeable and significant adverse impacts on the surface resources [ ] are [ ] are not attached hereto and made a part hereof.

(b) This lease [ ] does [ ] does not encompass lands within Special Areas and additional stipulations necessary to comply with Sec. 104 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 3504) [ ] are [ ] are not attached hereto and made a part hereof.

(c) The lessor reserves the right to impose additional stipulations for the purposes described in sections (a) and (b) of this paragraph at the same time of approval of the surface use plan and/or the drilling permit.

The United States of America

(Signature of Lessee) (Date)

By _____

(Authorized Officer)

FR Doc. 81-26337 Filed 9-9-81; 8:45 am]

BILLING CODE 4310-84-M

## INTERSTATE COMMERCE COMMISSION

### Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

#### Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

*Secretary.*

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract"

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

#### Volume No. OPI-253

Decided: September 2, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 80730 (Sub-6), filed August 27, 1981. Applicant: MAGNOLIA TRANSPORTATION CO., INC., 5121 Oates Road, P.O. Box 24458, Houston, TX 77013. Representative: Lester R. Gutman, 805 McLachlen Bank Bldg., 666 Eleventh Street NW., Washington, DC 20001, (202) 628-9243. Transporting *Mercer commodities*, between points in LA, TX, and MS, on the one hand, and, on the other, points in CA.

MC 119401 (Sub-1), filed August 27, 1981. Applicant: SPENCER TRANSFER, INC., P.O. Box 621, Petersburg, VA 23803. Representative: Calvin F Major, 200 W. Grace St., P.O. Box 5010, Richmond. VA 23220, (804) 649-7591. Transporting *malt beverages*, (1) between points in VA and DE, and (2) between points in MD and PA, on the one hand, and, on the other, points in VA.

MC 120371 (Sub-16), filed July 22, 1981, previously published in the Federal Register on August 11, 1981. Applicant CENTRAL OKLAHOMA FREIGHT LINES, INC., 2945 North Toledo, Tulsa, OK 74115. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034, (405) 348-7700. Transporting *general commodities* (except classes A and B explosives), over regular routes (1) between Bartlesville, OK, and Odessa, TX: from Bartlesville over U.S. Hwy 75 to Tulsa, then over Interstate Hwy 44 to Oklahoma City, then over H. E. Bailey Turnpike to junction U.S. Hwy 277, then over U.S. Hwy 277 to Abilene, TX, then over Interstate Hwy 20 to Odessa, and return over the same route, serving all intermediate points; and (2) serving all points in OK as off-route points.

Note.—Applicant intends to tack the authority granted in this proceeding with its existing authority.

Note.—This republication includes the tacking statement.

MC 121470 (Sub-85), filed August 27, 1981. Applicant: TANKSLEY TRANSFER COMPANY, a corporation, 801 Cowan St., Nashville, TN 37207 Representative: Helen Jones (same address as applicant) (615) 244-7417. Transporting *metal products* and *commodities* which because of size or weight require the use of special equipment, between points in Washington County, VA, on the one hand, and, on the other, points in the U.S.

MC 133420 (Sub-6), filed August 26, 1981. Applicant: TRI-STATE TRANSPORT, INC., 1532 West Anaheim St., PO Box 2168, Long Beach, CA 90801. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209, (303) 320-6100. Transporting *machinery, building materials* and *transportation equipment*, between points in the U.S.

MC 144330 (Sub-94), filed August 26, 1981. Applicant UTAH CARRIERS, INC., 3220 N. Hwy 89, Layton, UT 84041. Representative: John T. Caine, 2568 Washington Blvd., Ogden, UT 84401, (801) 393-5367 Transporting *steel articles*, between points in Box Elder County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, WA, and WY.

MC 156061 (Sub-1), filed August 26, 1981. Applicant LAND & SEA, INC., R. 6, Twin Falls, ID 83301. Representative: Timothy R. Stivers, PO Box 1576, Boise, ID 83701, (208) 343-3071. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (1) Homestead Log Co., of Payette, ID and (2) Farmers Union Central Exchange, Inc., of St. Paul, MN.

MC 157200 filed July 17, 1981, previously published in the Federal Register on August 3, 1981. Applicant: ALL-SEASON ENTERPRISES, INC., 769 Fifth Ave., Brooklyn, NY 11232. Representative: Brian S. Stern, North Springfield Professional Center II, 5411-D Backlick Rd., Springfield, VA 22151, (703)-941-8200. Transporting (1) *such commodities* as are dealt in or used by grocery stores and food business houses, hardware, discount and department stores, between the facilities of Clorox Company and it subsidiaries located at points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, OH, PA, RI, VT, VA, WV and DC; and (2) *such commodities* as are dealt in or used by manufacturers or distributors of (a) *paper and related products*, (b) *plastic products*, (c) *containers and closures*, and (d) *metal products*, between points in, east and north of WI, IL, KY, IN, SC and NC.

Note.—This republication corrects the commodity description.

MC 157691 (Sub-1), filed August 26, 1981. Applicant: BLUE VELVET TRANSPORT, INC., 50 W. Broad, Columbus, OH 43215. Representative: James W. Muldoon (same address as applicant) (614) 464-4103. Transporting *such commodities* as are dealt in by manufacturers and distributors of (a) chemicals and related products, and (b) rubber and plastic products, between points in the U.S.

MC 157880 filed August 24, 1981. Applicant: MISSION PETROLEUM CARRIERS, INC., 3643 East Commerce, San Antonio, TX 78220. Representative: Mike Cotten, P.O. Box 1148 Austin, TX 78767, (512) 472-8800. Transporting *commodities in bulk*, between points in TX, NM, OK, AR, LA, MS, AL and TN, on the one hand, and, on the other, points in the U.S.

MC 157940, filed August 27, 1981. Applicant: KST CORP., 3640 West Crown St., Philadelphia, PA 19114. Representative: Barnett Satinsky, 2000 Market St., 10th Floor, Philadelphia, PA 19103 (215) 299-2088. Transporting *furniture and fixtures*, between points in the U.S., under continuing contract(s) with Jonns, Inc., and Jonns Contemporary, Inc., both of Montgomeryville, PA.

Volume No. OPY-2-168

Decided: September 2, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 138772 (Sub-10), filed August 26, 1981. Applicant: ALL WAYS FREIGHT LINES, INC., P.O. Box 2426, Kansas City, KS 66110. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601, (913) 234-0565. Transporting, over regular routes, *general commodities* (except classes A and B explosives), (1) between Junction City, KS and Lincoln, NE, over U.S. Hwy 77, serving all intermediate points, and (2) between Blaine and Junction City, KS: from Blaine over KS Hwy 16 to junction KS Hwy 13, then over KS Hwy 13 to junction KS Hwy 113, then over KS Hwy 113 to Manhattan, KS, then over KS Hwy 18 to Junction City, and return over the same route, serving all intermediate points.

MC 144832 (Sub-4), filed August 24, 1981. Applicant: JOE C. SIKES, d.b.a. GLENN-LEE TRUCKING CO., P.O. Box 281, Springfield, GA 31329. Representative: Michael P. Hines, Apt. C-6, Tumlin Woods, 235 Sycamore Dr., Athens, GA 30606. Transporting *pulp paper and related products, lumber and wood products, and building materials*, between points in AL, FL, GA, MS, NC, SC, and TN.

MC 155142, filed August 21, 1981. Applicant: SOBEK EXPEDITIONS INC., P.O. Box 7007, Angels Camp, CA 95222. Representative: Richard Shapiro (same address as applicant) (209) 736-2661. Transporting *passengers and their baggage* in the same vehicle with passengers, in vehicles having a capacity of 15 passengers or less, in special operations, between San Francisco and Los Angeles, CA, Salt Lake City, UT, Denver, CO, and Las Vegas, NV, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY.

MC 157763, filed August 25, 1981. Applicant: PRESTO TRANSPORTATION, INC., P.O. Box 469, Peru, IL 61354. Representative: Gerald M. Hunter, 129 Walnut St., Oglesby, IL 61348, 815-883-3333. Transporting *rubber and plastic products*, between points in the U.S., under continuing contract(s) with The Kelly-Springfield Tire Company, of Cumberland, MD.

MC 157912, filed August 25, 1981. Applicant: KRISTIN SHIPPING COMPANY, P.O. Box 2727, Birmingham, AL 35202. Representative: Walter M. Boyce (same address as applicant) (205) 325-7765. Transporting *pipe, fittings, valves, fire hydrants, castings, and magnesium impregnated coke*, between points in the U.S., under continuing contract(s) with American Cast Iron Pipe Company, of Birmingham, AL.

Volume No. OPY-4-352

Decided: September 2, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 56167 (Sub-10), filed August 14, 1981. Applicant: D. K. HERSHEY, INC., R. D. 5, P.O. Box 491A, Hanover, PA, 17331. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108 (717) 233-5731. Transporting *clay, concrete, glass or stone products*, between the facilities of Hanover Prest Paving Company, in Adams County, PA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, MS, NC, NH, NJ, NY, OH, RI, SC, TN, VA, VT, WI, and WV

MC 134616 (Sub-1), filed August 10, 1981. Applicant: KEARNEY'S TRUCKING SERVICE, INC., P.O. Box 264, Portland, PA 18351. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517 (717) 344-8030. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under

continuing contract(s) with Whittaker Corp., of Los Angeles, CA.

MC 148576 (Sub 7), filed June 4, 1981, previously noticed in the Federal Register issue of June 22, 1981, and republished this issue. Applicant: DOTSON TRUCKING COMPANY, INC., 1220 Murphy Ave., SW., Atlanta, GA 30310. Representative: Brian S. Stern, North Springfield Professional Centre II, 5411 D Backlick Rd. 22151 (903) 941-8200. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of (a) chemicals and related products, and (b) *plastics and related products,* between points in the U.S.

Note.—The purpose of this republication is to delete the plant site restriction reflected in the prior notice.

MC 156076 (Sub-1), filed August 20, 1981. Applicant: ROLLER TRUCKING, INC., P.O. Box 379, Beebe, AR 72012. Representative: James M. Duckett, 221 West Second, Suite 411, Little Rock, AR 72201, (501) 375-3022. Transporting *lumber and wood* products, between White County, AR and points in TN, LA, and TX.

MC 157836, filed August 21, 1981. Applicant: BASELINE COMPANY d.b.a. JIM SCHAUER, 5660 Gregory Road, Dexter, MI 48130. Representative: Paul M. Ross, 3104 S. Cedar Street, Lansing, MI 48910 (517) 394-4222. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Bell Equipment Company, of Troy, MI.

MC 157866, filed August 24, 1981. Applicant: TULTEX TRANSPORTATION, INC., P.O. Box 5191-A, Martinsville, VA 24115. Representative: Earnest W. Sams, P.O. Box 5191-A, Martinsville, VA 24115 (703) 632-2961. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Tultex Corporation, of Martinsville, VA, Dillard Paper Company, of Greensboro, NC, Chemway Corporation, of Charlotte, NC, Joan Fabric, of Lowell, MA, Don Calaman Company, Inc., of Martinsville, VA, Martin Processing, Inc., of Fieldale, VA, and Newell & Sons, Inc. of Roxboro, NC.

MC 157796, filed August 19, 1981. Applicant: OK WASTE HAULING SERVICE INCORPORATED, 100 Sunny Sol Blvd., Caledonia, NY 14423. Representative: Leonard A. Jaskiewicz, 1730 M St., N.W., Suite 501, Washington, DC 20036. Transporting *liquid and dry waste or scrap materials,* between points in the U.S.

MC 157876, filed August 24, 1981. Applicant: WRIGHT TRANS, INC., P.O. Box 4269, San Clemente, CA 92672. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306 (805) 872-1100. Transporting *such commodities as are dealt in or used by suppliers of abrasive cleaning materials and packing and foundry sands,* between points in the U.S., under a continuing contract(s) with C-E Cast Industrial Products, of Long Beach, CA.

## Volume No OPY-4-353

Decided: September 2, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 34156 (Sub-10), filed August 24, 1981. Applicant: NIEDERT FREIGHT, INC., 7000 West 103rd St., Chicago Ridge, IL 60415. Representative: William D. Brejcha, 10 South LaSalle St., Suite 1600, Chicago, IL 60603 (312) 263-1600. Transporting *general commodities* (except classes A and B explosives), between points in IA, IL, IN, MI, MN, MO, and WI.

MC 102616 (Sub-1035), filed August 24, 1981. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister (Same address as applicant) (216) 867-8925. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Standard Oil Company (Ohio), of Cleveland, OH.

MC 139006 (Sub-32), filed August 24, 1981. Applicant: RAPIER SMITH, R.R. #5, Loretto Rd., Bardstown, KY 40004. Representative: William P. Whitney (same address as applicant) (502) 348-5159. Transporting (1) *food and related products,* (2) *motor oil,* and (3) *liquid cleaner,* between points in Lowndes County, MS, on the one hand, and, on the other, points in the U.S.

MC 157926, filed August 26, 1981. Applicant: SPARHAWK TRUCKING, INC., 130 25th Ave., South, Wisconsin Rapids, WI 54494. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703 (608) 256-7444. Transporting *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper, paper products, and plastic products, between points in WI, on the one hand, and, on the other, points in AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NV, NM, OH, OK, OR, TN, TX, UT, WA, and WY.

MC 152406 (Sub-4), filed August 25, 1981. Applicant: TEXAS WESTERN EXPRESS, INC., Suite 520, 301 NE Loop 820, Hurst, TX 76053. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103 (817) 332-4718. Transporting *food and related products,* between points in TX, OK, and KS, on the one hand, and, on the other, points in the U.S.

MC 154226, filed August 26, 1981. Applicant: T. COLEMAN EXPRESS, INC., 8613 River Rd., Amarillo, TX 79108. Representative: Barry Weintraub, 8133 Leesburg Pike, Suite 510, Vienna, VA 22180 (703) 442-8330. Transporting *food and related products,* between points in the U.S. under continuing contract(s) with John Morrell & Company, of Chicago, IL.

MC 133506 (Sub-1), filed August 25, 1981. Applicant: J & B TRANSPORTATION CO., INC., 2553 Gravel St., P.O. Box 18629, Fort Worth, TX 76118. Representative: Paul D. Angenend, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768 (512) 476-6391. Transporting (1) *metal products,* (2) *concrete products,* (3) *Mercer commodities,* and (4) *commodities* which because of their size or weight require the use of special equipment, between points in TX. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's request, of Certificate of Registration No. MC 133506.

[FR Doc. 81-26378 Filed 9-9-81; 8:45 am]

BILLING CODE 7035-01-M

## Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the

Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

*Secretary.*

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract"

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPI-254

Decided: September 2, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 157900, filed August 25, 1981. Applicant: ROBERTSON DRAYAGE CO., INC., 700 16th Street, San Francisco, CA 94107. Representative: S. S. Eisen, 370 Lexington Ave., New York, NY 10017 (212) 532-5100. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OPY-4-351

Decided: September 2, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 156836, filed August 24, 1981. Applicant: MURRY JOHNSON, INC., Rt. 2, State Highway 38 and 140, P.O. Box 158, Widener, AR 72394. Representative: Earl Mills, Rt. 2, State Highway 38 and 140, P.O. Box 158, Widener, AR 72394. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 157886, filed August 24, 1981. Applicant: NATIONWIDE FREIGHT, 15500 Phoebe Ave., LaMirada, CA 90638. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036 (202) 785-0024. As a broker of *general commodities* (except household goods), between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 5331.

[FR Doc. 81-26377 Filed 9-9-81; 8:45 am]

BILLING CODE 7035-01-M

## Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-151

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, Pa. 19106.

MC 142723 (Sub-II-2TA), filed August 31, 1981. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219. *Toys and games, bicycles, tricycles and play balls,* between points in Carnegie, PA, on the one hand, and, on the other, points in the U.S., under a continuing contract or contracts with Milton D. Myer Company of Carnegie, PA for 270 days. Supporting shipper: Milton D. Myer Company, Rothesay Avenue, Carnegie, PA 15106.

MC 142723 (Sub-II-3TA), filed August 31, 1981. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219. *Beverages and materials, equipment and supplies used in the manufacture and distribution of beverages* between Columbus, OH, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Shasta Beverages, Inc. of Columbus, OH for 270 days. Supporting shipper: Shasta Beverages, Inc., 4685 Groveport Road, Columbus, OH 43207.

MC 142224 (Sub-II-2TA), filed August 31, 1981. Applicant: CHARLES GAJDA

and CHESTER GAJDA, Co-partners, d.b.a. GADJA TRUCKING CO., R.D. 3, Volant, PA 16156. Representative: Sally A. Davoren, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. *Ores and minerals* between the facilities of Cametco, Inc. in Duquesne, PA, on the one hand, and, on the other, points in Boyd County, KY, for 270 days. Supporting shipper: Cametco, Inc., 201 Penn Center Blvd., Pittsburgh, PA 15235.

MC 136343 (Sub-II-27TA), filed August 31, 1981. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847 Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Food and Related Products* from the facilities of United Biscuit Co. of America, Grand Rapids, MI to points in the United States in and east of MN, IA, MO, AR and LA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: United Biscuit Co. of America, 7780 S. Division Avenue, Grand Rapids, MI 49508.

MC 146015 (Sub-II-26TA), filed August 31, 1981. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. *Contract;* Irregular, *general commodities* (except class A and B explosives) between points in and east of WI, IA, MO, TN, and MS, under continuing contract(s) with Consolidated Shippers of Mechanicsburg, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Consolidated Shippers, 6495 Carlisle Pike, Mechanicsburg, PA 17055.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357

MC 143304 (Sub-3-2TA), filed August 7, 1981. Applicant: BOBBY JOE BUSH d.b.a. AAA MOBILE HOME MOVERS, Post Office Box 569, Theodore, AL 36590. Representative: Robert E. Tate, Post Office Box 517, Evergreen, AL 36401. *Mobile Homes, buildings, building sections, modules, and parts and accessories thereto in initial and secondary movements,* between points in AL on and south of U.S. Highway 80, on the one hand, and, on the other, points in FL, GA, LA, MS, TN, and TX. Supporting shippers: Liberty homes, Inc., P.O. Box 145, Thomasville, GA 31792; Rhett Butler Mobile Home Sales, Inc., P.O. Box 848, Troy, AL 36081; Discount Mobile Home Sales, Brundidge, AL, DeRose Industries, Inc., P.O. Box 1076, Bainbridge, GA 31717; and Port City Mobile Home Sales, 65 S. Monterey Street, Mobile, AL.

MC 146601 (Sub-3-2TA), filed July 20, 1981. REPUBLICATION—Originally published in Federal Register of July 29, 1981, Page 38771; Volume 46, No. 145. Applicant: POTEAT MOTOR LINES, INC., P.O. Box 2030, Hickory, NC 28601. Representative: Robert D. Hoagland, 1204 Cameron Brown Building, 301 S. McDowell St., Charlotte, NC 28204. *General commodities, except in bulk* between points in the states of CT, DE, MA, MD, NJ, NY, PA, RI, and the town of Manchester, NH on the one hand, and, on the other, GA, NC, SC, and VA. Applicant intends to interline at Hickory, NC. There are ten (10) supporting shippers' statements attached to this application, which may be examined at the ICC Regional Office in Atlanta, GA.

MC 148183 (Sub-3-15TA), filed August 6, 1981. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Mr. Jerry Gereghty, P.O. Box 432, Gainesville, GA 30503. *FOOD AND RELATED PRODUCTS, except in Bulk,* between Jefferson County, KY on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, TX. Supporting shipper: Louisville Freezer Center, P.O. Box 8387, 607 Industry Road, Louisville, KY.

MC 152620 (Sub-3-3TA), filed August 5, 1981. Applicant CUSTOMIZED TRANSPORTATION, INC., P.O. Box 40083, Jacksonville, FL 32203. Representative: John W. Carter (same address as applicant). *Contract carrier:* irregular: *Pneumatic tires and other automobile accessories* from the facilities of The Goodyear Tire & Rubber Co. at (1) St. Louis, MO to points in IL, IN, KY, and MO and (2) New Orleans, LA to points in LA and MS under a continuing contract(s) with The Goodyear Tire & Rubber Co. Supporting shipper: The Goodyear Tire & Rubber Co., 1144 E. Market St., Akron, OH 44316.

MC 141870 (Sub-3-1TA), filed August 6, 1981. Applicant DIVERSIFIED TRUCKING CORP., 309 Williamson Avenue, Opelika, AL 36801. Representative: Robert E. Tate, Post Office Box 517, Evergreen, AL 36401. *Contract* Carrier irregular: *Food and kindred products and containers* from Santa Maria, Los Angeles, Burbank, Burlingame, Stockton, San Francisco and Chico, CA to Columbus, GA under contract(s) with Kinnet Dairies, Inc. Supporting shipper: Kinnet Dairies, Inc., P.O. Box 35; Columbus, GA 31994.

MC 155337 (Sub-3-8TA), filed August 6, 1981. Applicant KENNESAW TRANSPORTATION, INC., 115 Dixie Drive, Woodstock, GA 30188. Representative: C.W. Patrick (same address as applicant). *General Commodities, when moving on bills of lading of shippers associations* between the facilites of Greater Atlanta Shippers Association Inc. Atlanta, GA and points in the U.S. (except AK and HI) Supporting shipper: Greater Atlanta Shippers Association, Inc., 5720 Tulane Dr. SW., Atlanta, GA 30336.

MC 157586 (sub-3-1TA), filed August 7, 1981. Applicant: RICHARD PATTERSON, d.b.a. PATTERSON TRUCKING COMPANY, Route 6, Box 50, Brownsville, TN 38012. Representative: Richard Patterson (Same as above). *contract carrier,* irregular routes, *lawn and garden tractors, lawn edgers and shredders, recreational vehicles and parts and materials to manufacture these, products,* between points in Haywood County, TN and Sunflower County, MS, under a continuing contract with Modern Tool and Die Co., Inc., Brownsville, TN. Supporting shipper: Modern Tool & Die Co., Inc., P.O. Box 319, Brownsville, TN 38012.

MC 157584 (Sub-3-1TA), filed August 7, 1981. Applicant: PIEDMONT GRADING & WRECKING COMPANY, INC., 3652 Beatties Ford Road, Charlotte, NC 28216. Representative: William F. Potts, Jr, 907 Cameron-Brown Building, Charlotte, NC 28204. *Heavy road construction equipment* between NC, SC, VA, WV, FL, GA, AL, MS, TN, KY, MD, PA, NY, NJ, DE, TX, LA and AK. Supporting shippers: L. B. Smith, Inc., 11425 Reames Road, Post Office Box 26725, Charlotte, NC 28213; Case Power and Equipment Co., 9326 Statesville Road, Post Office Box 26704, Charlotte, NC 28213; and Carolina Tractor and Equipment Company, Post Office Box 26665, Charlotte, NC 28213.

MC 154364 (Sub-3-2TA), filed August 5, 1981. Applicant: QUALITY TRANSPORT—a division of CAROLINA TRAILER RENTALS, INC., 3124 North Boulevard, Raleigh, NC 27604. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, DC 20005. *Contract carrier:* irregular: *general commodities (except classes A&B explosives),* between points in Wilson County, NC, on the one hand, and, on the other, points in TX and OK under continuing contract(s) with Firestone Tire & Rubber Company—North American Tire Group Division of Wilson, NC. Supporting shipper(s): Firestone Tire & Rubber Company—North American Tire Group Division of Wilson, NC. P.O. Box 1139, Wilson, NC 27893.

MC 146496 (Sub-3-11TA), filed August 5, 1981. Applicant: JOSEPH MOVING & STORAGE CO., INC., d.b.a. St. JOSEPH MOTOR LINES, 5724 New Peachtree Rd., Chamblee, GA 30341. Representative: Thomas H. Davis, 5724 New Peachtree Rd., Chamblee, GA 30341. *Contract carrier;* irregular routes; *pneumatic rubber tires; tubes and related products* under continuing contract(s) with the B. F. Goodrich Tire Company between points in ME, VT, NH, MA, CT, RI, NY, DE, PA, NJ, MD, VA, NC and SC. Supporting shipper: The B. F. Goodrich Tire Company, 500 South Main Street, Akron, OH 44318.

MC 148392 (Sub-3-5TA), filed August 5, 1981. Applicant: SERVICE TRANSPORT, INC., P.O. Box 2749, Cookeville, TN 38501. Representative: Malcolm G. Floyd (same address as applicant). *General Commodities, except Class "A" and "B" explosives and hazardous waste* between Memphis, TN and Sparta, TN on traffic having a prior or subsequent movement in interstate or foreign commerce. Carrier to interline at Memphis, TN. Supporting shipper: There are 9 support statements attached to this application which may be examined at the Region 3 ICC Office, Atlanta, GA.

MC 148392 (Sub-3-3TA), filed August 5, 1981. Applicant: SERVICE TRANSPORT, INC., P.O. Box 2749, Cookeville, TN 38501. Representative: Malcolm G. Floyd (same address as applicant). *Clothing, NOI, in other than wheeled containers or hanging on hangers or racks, in boxes* between the plant site of Sutton Shirt Company, Sparta, TN and Memphis, TN on traffic having a prior or subsequent movement in interstate or foreign commerce. Carrier to interline at Memphis, TN. Supporting shipper: Sutton Shirt Corporation, P.O. Box 38, Sparta, TN 38583; Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712.

MC 148392 (Sub-3-4TA), filed August 5, 1981. Applicant: SERVICE TRANSPORT, INC., P.O. Box 2749, Cookeville, TN 38501. Representative: Malcolm G. Floyd (same address as applicant). *General commodities, except Class "A" and "B" explosives and hazardous waste* between Knoxville, TN and Memphis, TN on traffic having a prior or subsequent movement in interstate or foreign commerce. Carrier to interline at Knoxville, TN and Memphis, TN. Supporting shipper: There are 8 support statements attached to this application which may be examined at the Region 3 ICC Office, Atlanta, GA.

MC 156778 (Sub-3-1TA), filed July 20, 1981, republication—originally published in Federal Register of August 3, 1981, page 39503, volume 46, No. 148. Applicant: 7 HILLS TRANSPORT, INC., P.O. Box 6205, Rome, GA 30161. Representative: Lyons J. Heyman, Jr. (same as above). *Contract* carrier: irregular: *Furniture, furniture parts, and the materials, supplies used in the manufacture, distribution and sales thereof,* between points in GA, TX, GA, and NJ. Supporting shipper: Universal Furniture Co., 2690 Pellissier Place, Whittier, CA 90601.

MC 156778 (Sub-3-2TA), filed July 20, 1981, republication—originally published in Federal Register of August 3, 1981, page 39503, volume 46, No. 148. Applicant: 7 HILLS TRANSPORT, INC., P.O. Box 6205, Rome, GA 30161. Representative: Lyons J. Heyman, Jr. (same as above). *Contract* carrier: irregular: *Textile products and the materials and supplies used in manufacture, distribution, and sales thereof,* between points in GA, AL, MS, LA, TX, NM, AR, SC, TN, and CA. Supporting shipper: Trend Mills, Inc., P.O. Box 162, Rome, GA 30161.

MC 66746 (Sub-3-1TA), filed August 5, 1981. Applicant: SHIPPERS EXPRESS, INC., 1651 Kerr Dr., P.O. Box 6308, Jackson, MS 39204. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Contract carrier,* irregular routes. *Powered outdoor lawn and garden equipment and related accessories* between points in the U.S. under continuing contract(s) with Yazoo Manufacturing Co., Inc., Jackson, MS. Supporting shipper: Yazoo Manufacturing Co., Inc., P.O. Box 4449, Jackson, MS 39216.

MC 128502 (Sub-3-1TA), filed August 7, 1981. Applicant: JIMMY R. SHRUM and BOBBY SHRUM, d.b.a. SHRUM BROS. TRUCKING, P.O. Box 260, Lafayette, TN 37083. Representative: J. Greg Hardeman, 618 United American Bank Building, Nashville, TN 37219. *Contract carrier,* irregular routes: *General Commodities (except classes A & B explosives)* between points in the U.S. under a continuing contract with Lafayette Manufacturing Company, Inc. of Lafayette, TN. Supporting Shipper: Lafayette Manufacturing Company, Inc., P.O. Box B, Lafayette, TN 37083.

MC 157529 (Sub-3-1TA), filed August 7, 1981. Applicant: NOLEN SISTRUNK INC., P.O. Box 169, Sebastopol, MS 39359. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Contract* carrier: irregular: *such commodities as are dealt in or used by manufacturers of feed, pesticides, animal and poultry health products, and feeders,* from the facilities of Moorman Mfg. Co. at or near Quincy, IL, to points in AL, AR, KY, LA, MS, and TN, under continuing contract(s) with Moorman Mfg. Co. of Quincy, IL. Supporting Shipper: Moorman Mfg. Co., 1000 North 30th Street, Quincy, IL 62301.

MC 142680 (Sub-3-6TA), filed August 5, 1981. Applicant: SUMTER TIMBER CO., INC., P.O. Box 104, Cuba, AL 36907. Representative: Virgil H. Smith, 74 Highway N., Box 245, Tyrone, GA 30290. *Lumber, Forest Products & Pallets.* (1) From MS to points in NC, SC, IL, MO, OH, IN, TN, KY, OK, and AL, (2) From AL to points in MS, LA, TX, AR, FL, OH, TN, KY, IN, MO, NC, SC, and OK, (3) From points in AL to Mobile and Baldwin Counties, AL for subsequent shipments by water, and (4) Between points in MS, AL, GA, and FL. There are ten (10) Supporting Shippers attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 156993 (Sub-3-1TA), filed August 7, 1981. Applicant: TAYLOR'S TRUCKING COMPANY, 1105 Pauline Avenue, Charleston, SC 29412. Representative: David Popowski, Post Office Box 1064, Charleston, SC 29402. *Contract Carrier,* irregular routes, *Wood based building products, including lumber, plywood, corestock, boards, panels or sheets with resin binder and materials, equipment and supplies used in the manufacture, sale and distribution thereof* between Charleston, SC and Orangeburg, SC, for shipments having a prior or subsequent movement by water, under a continuing contract with Champion International Corporation in order to serve Champion's facilities at or near Orangeburg, SC. Supporting Shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, OH 45020.

MC 152664 (Sub-3-4TA), filed August 7, 1981. Applicant: TOMBIGBEE TRANSPORT CORPORATION, P.O. Box 412, Industrial Park, Adamsville, TN 38310. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Piece goods* from points in NC, SC and VA to facilities of Master Slack Corp. at or near Bolivar and Ripley, TN. Supporting Shipper: Master Slack Corp., P.O. Box 226, Bolivar, TN 38008.

MC 157292 (Sub-3-1TA), filed August 6, 1981. Applicant: UNITED TANK ERECTION CORP., P.O. Box 25351, 7900 Pence Rd., Charlotte, NC 28212. Representative: William J. Baird (same address as applicant). *Steel tanks and other steel related products, fabricated machinery, and materials to manufacture any of the fore-mentioned,* between NC, and points in SC, GA, AL,

MS, LA, FL, TX, AR, KY, TN, IN, OH, VA, WV, MD, DE, PA, DC. Supporting shippers: Fabricated Products, Inc., 7900 Pence Rd., Charlotte, NC 28212, and Consolidated Fabricators, Inc., 1610 Woodhurst Lane, Albemarle, NC 28001.

MC 154103 (Sub-3-10TA), filed August 27, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Expanded Metal Products and Fabricated parts for lawn furniture,* from the facilities of Metalex, Inc. at Libertyville, IL, on the one hand, on the other, to points in the U.S. Supporting shipper: Metalex, Inc., 1530 Artaius Parkway, Libertyville, IL 60048.

MC 154103 (Sub-3-11TA), filed August 27, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Copper, brass or tin anodes,* from the facilities of Univertical Corp. at Detroit, MI, on the one hand, and, on the other, to points in the U.S. in and east of ND, SD, NE, OK, and TX. Supporting shipper: Univertical Corp., 14841 Meyers Road, Detroit, MI 48827

MC 154103 (Sub-3-12TA), filed August 27, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Automotive parts and accessories,* from the facilities of Perfection Automotive Products Corp., at Livonia, MI, on the one hand, and, on the other, to points in the U.S. Supporting shipper: Perfection Automotive Products Corp., 12445 Levan Road, Livonia, MI 48150.

MC 154103 (Sub-3-13TA), filed August 27, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Tar Tape,* from the facilities of Tape Coat at Evanston, IL, to points in the U.S. Supporting shippers: Tape Coat, 1523 Lions, Evanston, IL 60204.

MC 154103 (Sub-3-14TA), filed August 28, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Edible flour, chemicals, bread making compounds, spices, dry egg substitute, milk powder,* from the facilities of Roland Industries at St. Louis, MO, to points in the U.S. Supporting shipper: Roland Industries, Inc., 2280 Chaffee Drive, St. Louis, MO 63141.

MC 154103 (Sub-3-15TA), filed August 28, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Rubber inner tubes, rubber snap-in valves,* from the facilities of Cupples Company at St. Louis, MO, to points in the U.S. Supporting shipper: Cupples Company, 9430 Page Ave., Box 8430, St. Louis, MO 63132.

MC 154103 (Sub-3-16TA), filed August 28, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Cast iron, deep well water pumps, water pumps, irrigation equipment,* from the facilities of Layne and Bowler at Memphis TN, to Twin Falls ID, New Orleans LA, Alexandria MN, Kearney NE, Lubbock TX. Supporting shipper: Layne and Bowler, 1993 Chelsea Ave., Memphis, TN 38108.

MC 154103 (Sub-3-17TA), filed August 28, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Plastic bottles, industrial bottles, plastic beverage bottles,* from the facilities of Sewell Plastic at Collierville TN, to Little Rock AR, Monticello AR, Kansas City KS, Holland MI, Kansas City MO, Malden MO, St. Louis MO, Springfield MO, Omaha NE, Charlotte NC, Arlington TX, and Dallas TX. Supporting shipper: Sewell Plastic, Inc., 89 Eastly St., Collierville TN 38017

MC 154103 (Sub-3-18TA), filed August 28, 1981. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Contract carrier;* irregular routes; *Printed matter and the materials and supplies used in the manufacturing thereof,* between points in the U.S., under continuing contracts with R. R. Donnelley Printing Company, Gallatin, TN. Supporting shipper: R. R. Donnelley Printing Company, 801 Steam Plant Rd., Gallatin, TN 37066.

MC 143061 (Sub-3-10TA), filed August 28, 1981. Applicant: ELECTRIC TANSPORT, INC., P.O. Box 528, Eden, NC 27288. Representative: Archie W. Andrews (same as Applicant). *General commodities (except class A and B explosives),* between facilities used by the Sunbeam Corporation on the one hand, and, on the other, points in the US, except AK & HI. Supporting Shipper: Sunbeam Corporation 5200 Roosevelt Road, Chicago, IL 60650.

MC 117872 (Sub-3-2TA), filed August 28, 1981. Applicant: A. JOSEPH AND COMPANY, P.O. Box 4798, Jackson, MS 39216. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Glass beads, glass spheres and thermal plastic marking materials* between Rankin County, MS and points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY. Supporting shipper: Cataphote Div. of Ferro Corp., 1001 Underwood Dr., Flowood, MS 39208.

MC 152193 (Sub-3-3TA), filed August 28, 1981. Applicant: REYNOLDS TRUCK LINES, INC., 215 Cherry Street, Madison, Tennessee 37115. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. *Glass Tubing,* from points in Cumberland County, NJ and Wood County, WV to points in Sumner County, TN. Supporting Shipper: Reco Industries, Inc., 1303 Louisville Highway, Goodlettsville, TN 37072.

MC 147547 (Sub-3-5TA), filed August 28, 1981. Applicant: R & D TRUCKING COMPANY, INC., 4401 Mars Hill Road, Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37217. *General commodities (except Classes A and B explosives),* (1) between the facilities of Industrial Lubricants Company, at or near San Antonio, TX, on the one hand, and, on the other, points in the U.S., (2) between the facilities of Damsky Paper Company, at or near Birmingham, AL, on the one hand, and, on the other, points in the U.S. Supporting shippers: Industrial Lubricants Company, 434 Riverside Drive, San Antonio, TX, 78220, Damsky Paper Company, 4 North 43rd Street, Birmingham, AL, 35222.

MC 149498 (Sub-3-11TA), filed August 27, 1981. Applicant: RIVER BEND TRANSPORTATION, INC., P.O. Box 5808, Pearl, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. *Contract carrier:* irregular routes; *Printed matter* between Alcorn County, MS, on the one hand, and, on the other, points in the United States under a continuing contract(s) with Hall of Mississippi, Corinth, MS. Supporting Shipper: Hall of Mississippi, 1 Golden Drive, Corinth, MS 38834.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 157857 (Sub-6-1TA), filed August 24, 1981. Applicant: BAKER RENTAL

AND SALES, INC., 1151 Baker St., Costa Mesa, CA 92627. Representative: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631. *Contract Carrier,* Irregular routes: *Farm and construction equipment which, because of size and weight, require the use of special handling equipment, farm and construction machinery, Mercier Commodities, building, pipe and steam-fitting materials used in the construction of oil field refineries, water processing plants and pipeline construction,* between points in AZ, CA, CO, ID, GA, KY, MO, MS, NV, OR, TN, TX, WA, WY, VA, UT, and NM for 270 days. Supporting shipper: Brinderson Corp., Brinderson Plaza, 19700 Fairchild, Irvine, CA 92714; Case Power and Equipment, 7954 Daggettwood, San Diego, CA; Agee Agriculture Equipment Sales, Inc., 2022 S. Juniper, Escondido, CA.

MC 141431 (Sub-6-2TA), filed August 24, 1981. Applicant: CAL-VALLEY TRANSPORTATION, INC., 1315 E. Holt Blvd., Ontario CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Frozen fruits and vegetables* from (1) Anaheim, Atwater, Los Angeles, Modesto, San Jose, Turlock and Watsonville, CA; (2) Bear Lake and Decatur, MI; and (3) Lynden, WA, to points in the U.S. (except MT, ID, UT, NM, OK, LA, NC, SC, VA, WV, AK and HI), limited to service under contract with J. R. Wood, Inc., from J. R. Wood, Inc. facilities or cold storage warehouses used by J. R. Wood, Inc., for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: J. R. Wood, Inc., 7916 West Bellevue, Atwater, CA 95301.

MC 157289 (Sub-6-1TA), filed August 20, 1981. Applicant: HUNTERLINE TRUCKING LTD., 5121-46th Ave. S.E., Box 421, Salmon Arm, B.C. CN VOE 2T0. Representative: Robert G. Gleason, 1127-10th E., Seattle, WA 98102. *Lumber and lumber products,* between points of entry at the U.S.-Canadian International Boundary in WA, ID and MT and points in ID and MT for 270 days. An underlying ETA requesting 120 days authority has been filed. Supporting shippers: Taiga Wood Products Ltd., 4400 Dommion St., Burnaby, B.C., CN and Marathon Forest Products Ltd., 11533-154th Street, Edmonton, Alberta, CN.

MC 157858 (Sub-6-1TA), filed August 24, 1981. Applicant: NICK OLIVAS, d.b.a. OLIVAS TRUCKING, 833 Mt. Taylor Ave., Grants, NM 87020. Representative: NICK Olivas (same as applicant). *Coal;* from Arroyo Mine No. 1, Sandoval County, NM to Douglas, AZ and Amarillo, TX for 270 days. an underlying ETA seeks 120 days authority. Supporting shipper: Page Mill Energy Corporation, Star Route Box 16B, Bernalillo, NM 87004.

MC 144572 (Sub-6-32TA), filed August 25, 1981. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. B. G, Greeley, CO 80632. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717-17th St., Denver, CO 80202. *Plumbing fixtures,* from Alliance, OH, and Nevada, MO, to Chicago, IL, Denver, CO; Los Angeles, CA; Minneapolis, MN; Omaha, NE; Portland, OR; Seattle, WA; and points in TX, for 270 days. Supporting shipper: Crane Co., 14909 Gaskill Dr., Alliance, OH 44601.

MC 152609 (Sub-6-4TA), filed August 24, 1981. Applicant: SHIPPERS FREIGHT SERVICES, INC., P.O.B. 1248, Lake Oswego, OR 97034. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210. *Contract carrier,* Irregular routes: (1) *paper and paper articles* and (2) *materials and supplies* used in the manufacture and distribution of paper and paper articles, between the facilities of the Boise Cascade Corporation at or near Steilacoom, Vancouver and Walla Walla, WA; and Salem and St. Helens, OR, on the one hand, and, on the other, points in AZ, CO, ID, MT, NM, OR, UT and WA, for the account of the Boise Cascade Corporation, for 270 days. Supporting shipper: Boise Cascade Corporation, P.O.B. 1414, Portland, OR 97207

MC 148737 (Sub-6-15TA), filed August 24, 1981. Applicant: SUNSET EXPRESS CORPORATION, P.O.B. 27043, Salt Lake City, UT. Representative: Michael A. Clark (same as applicant). *Sodium Bicarbonate, sodium carbonate, cleaning and scouring compounds, and raw materials* used in the production of the above, Between Church and Dwight Co, Inc, Near Green River, WY, and warehouse facilities at Clearfield and Salt Lake City, UT, on the one hand, and, on the other, points in UT, CA, OR, WA, MT, AZ, NV and ID, for 270 days. Supporting shipper: Church & Dwight Co., Inc., 20 Kingsbridge Rd., Piscataway, N.J. 08854.

MC 157902 (Sub-6-1TA), filed August 25, 1981. Applicant: VANCO TRUCKING CO-OP, 2191 South 300 West, Salt Lake City, UT 84115. Representative: Larry A. VanWagoner, 3093 Bell Canyon Road, Sandy, UT 84092. *New furniture* (blanket wrapped and cartoned) between points in CA, UT, and ID, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are five statements of support which may be examined at the ICC regional office listed above.

MC 156988 (Sub-6-1TA), filed August 24, 1981. Applicant: CLIFFORD VAN DE BRAKE, Rt 3, B 3752, Hermiston, OR 97838. Representative: Lawrence V Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210. *Malt beverages and wine,* from Van Nuys, Modesto, San Jose, and Ripon, CA to Pendleton, OR, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Umatilla Distributing Co., 322 S E 6th St., Pendleton, OR.

MC 143775 (Sub-6-33TA), filed August 25, 1981. Applicant: PAUL YATES, INC., 6601 W Orangewood, Glendale, AZ 85311. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW, Washington, DC 20001. *Contract;* irregular: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. under continuing contract(s) with United Freight for 270 days. Supporting shipper: United Freight, Inc., 1260 Southern Rd., Morrow, GA 30260.

MC 143775 (Sub-6-34TA), filed August 25, 1981. Applicant: PAUL YATES, INC., 6601 W Orangewood, Glendale, AZ 85311. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW, Washington, DC 20001. *Contract;* irregular: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. under continuing contract(s) with Distribution Services of America, Inc. for 270 days. Supporting shipper: Distribution Services of America Inc., 666 Summer St., Boston, MA 02210.

MC 113271 (Sub-6-10TA), filed August 24, 1981. Applicant: TRANSYSTEMS INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Patrick W. Rice, P.O. Box 2644, Great Falls, MT 59403. *Foodstuffs,* from points in MT to points in WA, OR and CA, for 270 days. Supporting shipper: Waters Distributing Company, 1011 River Drive South, Great Falls, MT 59401.

Agatha L. Mergenovich,
*Secretary.*

[FR Doc. 81-26379 Filed 9-8-81; 8:45 am]
BILLING CODE 7035-01-M

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[Volume No. 159]

## Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: September 4, 1981.

The following restriction removal

applications, filed after December 28, 1980, are governed by 49 CFR Part 1137 Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747

Persons wishing to file a comment to an application most follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning opeations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,
*Secretary.*

MC 8771 (Sub-82)X, filed August 25, 1981. Applicant: S M TRANSPORT, INC., P.O. Box 41, Camp Hill, PA 17011. Representative: John R. Sims, Jr., Robert B. Walker, 915 Pennsylvania Bldg., 425—13th Street, N.W., Washington, DC 20004. Applicant seks to remove restrictions in its Sub-No. 68F certificate to (1) broaden the commodity description from road making machinery, machinery parts, contractors' equipment, commodities which because of size and weight require the use of special equipment and self-propelled vehicles each weighing 15,000 pounds or more to "machinery, contractors' equipment and commodities which because of size and weight require the use of special equipment"; (2) replace Mattoon, IL with Coles County, IL, (3) authorize radial authority to replace existing one-way authority; and (4) remove the except AK and HI restriction.

MC 38227 (Sub-11)X, filed August 26, 1981. Applicant: CRUTCHER TRANSFER LINE, INC., P.O. Box 8364, 600 Marret Avenue, Louisville, KY 40208. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Applicant seeks to remove restrictions in its lead and Sub-Nos. 5, 6, 7 and 9 certificates to (1) broaden the commodity descriptions from general commodities (with exceptions) to "general commodities (except classes A and B explosives)", (2) provide service to all intermediate points, (3) remove restrictions against service to points in IN within the Louisville, KY commercial zone in Sub-No. 5, and (4) remove plant site restrictions to permit an unrestricted service at Campbellsville and Louisville, KY in Sub-No. 9.

MC 71452 (Sub-23)X, filed September 1, 1981. Applicant: INDIANA TRANSIT SERVICE, INC., 4300 West Morris Street, Indianapolis, IN 46241. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137 Applicant seeks to remove restrictions in its Sub-Nos. 6 and 12 certificates to (1) broaden its commodity descriptions to "general commodities (except classes A and B explosives)", from general commodities (with exceptions), in both certificates; and (2) in Sub-No. 6, change Weir-Cook Municipal Airport to Indianapolis, IN; and the restriction limiting transportation of shipments to those having a prior or subsequent movement by air-craft; and in Sub-No. 12, the weight restrictions.

MC 76677 (Sub-15)X, filed July 30, 1981, previously noticed in the FR of August 12, 1981, republished as follows: Applicant: HALLAMORE MOTOR TRANSPORTATION, INC., 795 Plymouth Street, Holbrook, MA 02343. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Applicant seeks to remove the restrictions in its lead and Sub-Nos. 8, 9, 10, 11, 12, 13F, letter notice E 1 (B) and (C), and that authority acquired and merged into applicant pursuant to MC-F-14455F as follows: (a) in the lead (1) delete the exceptions in its general commodities portion, except Classes A and B explosives; (2) authorize service to all intermediate points on its regular routes; (3) authorize county-wide service to off-route points: Rochester and Bourne, MA, to Plymouth and Barnstable Counties, MA; 26 cities in MA, to Plymouth, Norfolk, Bristol, Middlesex, and Suffolk Counties, MA; 4 cities in MA, to Suffolk, Middlesex, Norfolk, and Essex Counties, MA; and Whitman, MA, to Plymouth County, MA; (4) authorize two-way operations in lieu of one-way operations; (5) broaden the commodity description in the irregular route portion of the certificate, from coke, to "coal and coal products"; (6) remove seasonal service restrictions; (7) broaden Providence, RI to Providence, Bristol, and Kent Counties, RI and Bristol Counties, MA; (8) broaden Whitman and Brockton, MA to Plymouth, Norfolk, and Bristol Counties, MA; (9) broaden the territorial authority of Brockton, MA and points in MA within 35 miles of Brockton to Plymouth, Barnstable, Norfolk, Suffolk, Bristol, Essex, Middlesex, and Worcester Counties, MA; (b) in Sub-No. 8 (1) broaden the commodity description from road-building machinery, contractor's equipment, road-building contractor's materials and supplies, with restrictions, to "machinery, metal products, those commodities which because of their size or weight require the use of special handling or equipment, and commodities in bulk", and (2) remove in bulk, in tank vehicle restriction; (c) in Sub-No. 9 (1) broaden the commodity description from such commodities as heavy machinery, vaults, safes, and articles requiring specialized handling or rigging because of size or weight, to "machinery, metal products, and those commodities which because of their size or weight require the use of special handling or equipment"; (2) broaden the territorial authority of Boston, MA and points in MA within 50 miles of Boston, to Suffolk, Norfolk, Middlesex, Essex, Plymouth, Worcester, Bristol, and Barnstable Counties, MA; (d) in Sub-No. 10 (1) broaden the commodity description from road-building machinery and contractor's equipment which because of size or weight require special handling or the use of special equipment and road-building contractor's materials and supplies, with restrictions, to "machinery, metal products, those commodities which because of their size or weight require the use of special handling or equipment, and commodities in bulk"; (e) in Sub-No. 11 (1) broaden the territorial authority from Syracuse, NY and points in New York within 75 miles of Syracuse to Fulton, Delaware, Oswego, Broome, Chenango, Madison, Montgomery, Cortland, Onondaga, Cayuga, Tompkins, Tioga, Chemung, Steuben, Schuyler, Livingston, Wyoming, Monroe, Wayne, Ontario, Yates, Sehoharie, Seneca, Hamilton, Herkimer, Oneida, Lewis, Jefferson, and Oswego Counties, NY; (f) broaden the territorial authority from between Stratford, CT and points in CT within 75 miles of Stratford to state-wide authority of between points in CT, (g) in Sub-No. 13F (1) broaden the commodity descriptions from coolers, heat exchangers, condensors, equalizers, and parts, accessories, and attachments related thereto, and materials,

equipment, and supplies used in the manufacture, repair, distribution of said commodities, to "machinery, metal products, those commodities which because of their size or weight require the use of special handling or equipment"; (2) remove the in bulk restriction; and (3) remove facility restriction; and 4) authorize county-wide authority by substituting Cumberland County, ME in lieu of South Portland, ME; (h) in the authorities acquired in MC-F-14455F: (1) Sub-No. 51 part (2), broaden the commodity descriptions from sand, gravel, crushed stone, haydite, and cement, to "clay, concrete, glass or stone products"; (2) in Sub-No. 68, broaden the commodity description from self-propelled articles each weighing 15,000 lbs. or more and related machinery, tools, parts, and supplies, to "transportation equipment, machinery, metal products"; (3) in Sub-No. 70, broaden the commodity description from fly ash and fly ash pellets, to "clay, concrete, glass or stone products"; (4) in Sub-No. 79, broaden the commodity description from cryogenic tanks and parts, accessories, equipment, materials, and supplies, to "machinery, metal products, those commodities which because of their size or weight require the use of special handling or equipment," and remove the except in bulk limitation, (5) in Sub-No. 81, broaden the commodity description from farm equipment, and parts and accessories for farm equipment, farm machinery, and equipment, materials supplies to be used in the manufacture of farm equipment, to "machinery, metal products, transportation equipment" and remove the except in bulk limitation; (6) in Sub-No. 82, broaden the commodity description from chloride producing systems and parts and accessories, to "machinery and metal products"; (7) remove in bulk restrictions; (8) remove facility restrictions; (i) in its E-1 (B) and (C) to (1) broaden the commodity descriptions from road-building machinery and contractors' equipment, road-building contractors' materials and supplies when transported together with road-building contractors' machinery and equipment requiring specialized handling or rigging because of size or weight, to "machinery, metal products, those commodities which because of size or weight require the use of special handling or equipment, and commodities in bulk"; and (2) remove "in bulk" restrictions.

The purpose of this republication is to correct several inadvertent omissions.

MC 118202 (Sub-178)X, filed August 21, 1981. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge Street, Winona, MN. Representative: Robert S. Lee, 1600 TCF Tower, Minneapolis, MN 55402. Applicant seeks to remove restrictions in its lead and Sub-Nos. 4, 6, 13, 14, 19, 23, 24, 25, 26, 28, 32, 33, 35, 38, 41, 43, 45, 48, 50, 52, 53, 57, 58, 61, 62, 65, 67, 68, 70, 71, 73, 76, 77, 80, 81, 82, 83, 85F, 86F, 91F, 98F, 99F, 103F, 104F, 105F, 110F, 111F, 113F, 116F, 117F, 118F, 119F, 121F, 122F, 131F, 133F, 135F, 136F, 137F, 138F, 139F, 144F, 145F, 146F, 147F, 149F, 150F, 152F, 153F, 155F, 157F, 158F, 159F, 160F and 161F certificates, and MC-135032 Sub-Nos. 6 and 13, acquired in MC-F-13567 to (1) broaden the commodity descriptions: (a) to "food and related products" from (i) meats, meat products, meat by-products, articles distributed by meat packinghouses and (ii) foodstuffs when transported in mixed loads with the commodities in (i) above in Sub-No. 4, from meat, meat products, meat by-products and articles distributed by meat packinghouses in Sub-Nos. 6, 19, 24, 26, 32, 48, 53, 65, 67, 70, 71, 76, 81, 82, 83, 85F, 86F, 99F, 105F, 146F, 157F, and 159F, from meat, meat products, meat by-products, articles distributed by meat packinghouses and dairy products in Sub-No. 33, from meat, meat products, meat by-products, articles distributed by meat packinghouses and foodstuffs in Sub-No. 61 and 110F, from meats, meat products, meat by-products, articles distributed by meat packinghouses and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers in Sub-No. 119F, from potato products in Sub-No. 23, from frozen potatoes and frozen potato products in Sub-Nos. 25, 45, 50, 62, and 68, from foodstuffs (except candy and cherries) in Sub-No. 35, from foodstuffs in Sub-Nos. 38, 116F, 133F, 135F, 144F and 145F, from foodstuffs and articles distributed by meat packing plants in Sub-No. 77, from preserved foodstuffs in Sub-No. 98F, from foodstuffs and materials equipment and supplies used in the manufacture and distrubution of gelatin products in Sub-No. 161F, from cheese and canned goods in Sub-No. 104F, from dairy products in Sub-Nos. 136F and 139F, from dairy products, except cheese, in Sub-No. 155F, from sauerkraut in Sub-No. 149F and from beverages in Sub-No. 158F; (b) to "textile mill products and waste or scrap materials not indentified by industry producing" from imported wool, wool tops and noils, wool waste (corded, spun, woven or knitted) and domestic wool in mixed shipments with important wool, wool tops, wool noils, or wool waste (carded, spun, woven or knitted) in the lead; (c) to "chemicals and related products" from (i) agricultural fermentation compounds and ingredients thereof, (ii) fertilizers and fertilizer ingredients, (iii) animal minerals and vitamins, (iv) supplies, signs and advertising materials used in the sale of (i), (ii) and (iii) above, and (v) commodities otherwise exempt under Section 203 (b) (6) of the Act when moving in mixed shipments with the commodities authorized in (i), (ii), (iii), and (iv) herein in Sub-No. 14; (d) to "chemicals and related products, rubber and plastic products, and waste and scrap meterials not identified by industry producing" from manufactured mulch in Sub-No. 28; (e) to "chemicals and related products " from agricultural chemicals in Sub-No. 41, from soda ash in Sub-No. 121F, from fertilizer in Sub-No. 137F and from toilet preparations and soap products in Sub-No. 160F; (f) to "food and related products, and furniture and fixtures" from confectionary products, benches, chalkboards, desks, sand boxes and tables in Sub-No. 43; (g) to "building materials" from plumbing supplies and accessories in Sub-No. 52 and from bathtubs and shower modules in Sub-No. 58; (h) to "building materials, furniture and fixtures" from electrical conduit, pipe, wire, cable, and electral supplies, plumbing fixtures and supplies, water heaters and heating and airconditioning units and parts therefor and kitchen cabinet in Sub-No. 73, (i) to "petroleum, natural gas and their products, chemicals and related products and machinery" from petroleum and petroleum products, vehicle body sealer, sound deadener compounds and filters in Sub-Nos. 80 and 103F, (j) to "furniture and fixtures, and lumber and wood products" from new furniture, furniture parts, particleboard, laminate and hardboard laminate in Sub-No. 91F; (k) to "furniture and fixtures" from new furniture, crated in Sub-No. 113F, (l) to "such commodities used or dealt in by manufacturers of electronic equipment" from capacitors parts and components for capacitors and materials, equipment and supplies used in the maunfacture of capacitors in Sub-No. 111F; (m) to "pulp, paper and related products and printed matter" from paper, magazines and magazine sections in Sub-No. 118F; (n) to "metal products" from metal screws in Sub-No. 122F; (o) to "transportation equipment and textile mill products" from new motorcycle, in crates and yarn in MC-135032 Sub-No. 6; (p) to "food and related products" from cheese in MC-135032 Sub-No. 13; (q) to "food and related products, chemicals and related products and ores and minerals" from flour, animal and poultry feed and feed ingredients and animal and poultry

health products in Sub-No. 131F; (r) to "metal products and machinery" from wire and cable in Sub-No. 152F; and from such commodities as are used in the manufacture of valves and valve control systems in Sub-No. 153F; (s) to "rubber and plastic articles" from thermosetting and thermoplastic molding materials in Sub-No. 138F and from plastic containers in Sub-No. 150F; and (t) to "chemicals and related products, textile mill products, and rubber and plastic products" from chemicals and cleaning supplies in Sub-No. 57; (2) to change facilities to cities or counties and cities to counties as follows: from Nutley, NJ, Reedsburg, Janesville, and Appleton, WI, Cohoes, NY and Woonsocket, RI to Essex County, NJ, Sauk, Rock and Outagamie Counties, WI, Albany County NY and Providence County, RI in the lead; from facilities in Austin, MN to Mower County, MN in Sub-Nos. 4 and 77; from facilities in Joslin, IL to Rock Island, County, IL in Sub-Nos. 6, 82, 105F, and 146F, from Laredo, TX to Webb County, TX in Sub-Nos. 13 and 117F; from Carson City, NV to Carson County, NV in Sub-No. 14; from facilities in Wagner, SD to Charles Mix County, SD in Sub-Nos. 19 and 24; from Grand Forks, ND to Grand Forks County, ND in Sub-No. 23; from facilities in Clark, SD to Clark County, SD, in Sub-Nos. 25 and 45; from facilities in York, NE to York County, NE in Sub-No. 26; from Findlay, OH to Hancock County, OH in Sub-No. 28; from facilities in Fremont, NE, Fort Dodge and Algona, IA to Dodge County, NE, Webster and Kossuth Counties, IA in Sub-No. 32; from facilities in Sioux Falls, SD to Sioux Falls, SD in Sub-No. 33; from facilities in Beloit, WI to Rock County, WI in Sub-No. 35; from facilities in Grand Forks, ND to Grand Forks County, ND in Sub-No. 38; from facilities in Muscatine, IA to Muscatine County, IA, in Sub-No. 41; from facilities in Ottumwa, IA to Wapello County, IA in Sub-No. 48; from facilities at Fairmont, MN to Martin County, MN, in Sub-No. 50; from facilities at Plainview, NY to Nassau County, NY in Sub-No. 52; from facilities at Eau Claire and Chippewa Falls, WI to Eau Claire and Chippewa Counties, WI in Sub-No. 53; from Rosemount Township, MN to Dakota County, MN in Sub-No. 57; from Monroe, OH to Butler County, OH in Sub-No. 58; from facilities at Knoxville, IA to Marion County, IA in Sub-No. 61; from facilities at Sioux Falls, SD to Sioux Falls, SD in Sub-No. 62; from facilities at Storm Lake and Cherokee, IA to Cherokee and Buena Vista Counties, IA in Sub-No. 65; from facilities at National Stockyards, National City, IL to St. Clair County, IL in Sub-No. 67; from facilities in Eau Claire, WI to Eau Claire County, WI in Sub-Nos. 70 and 86F; from facilities in St. Louis, MO to St. Louis, MO in Sub-No. 71; from Maspeth, Yonkers, Hicksville, NY, Linden, New Brunswick and Edison, NJ, Pawtucket, RI, Moundsville, WV, Wheatland, PA, Plano, TX, Watertown, SD, Perrysville, OH, Kohler, WI, Chattanooga, TN and Norman, OK to Queens, Westchester and Nassau Counties, NY, Union and Middlesex Counties, NJ, Providence County, RI, Marshall County, WV, Mercer County, PA, Collin County, TX, Codington County, SD, Ashland County, OH, Sheboygan County, WI, Hamilton County, TN and Cleveland County, OK in Sub-No. 73; from facilities at Grand Island and Omaha, NE, Des Moines, Glenwood, Marshalltown and Sioux City, IA to Hall County and Omaha, NE, Mills, Polk, Marshall and Woodbury Counties, IA in Sub-No. 76; from Jasper, TN to Marion County, TN in Sub-No. 80; from facilities in South St. Paul to St. Paul, MN in Sub-No. 81; from facilities in Albert Lea, MN to Freeborn County, MN in Sub-No. 83; from Waterloo and Independence, IA to Black Hawk and Buchanan Counties, IA in Sub-No. 85; from Archbold and Stryker, OH to Fulton and Williams Counties, OH in Sub-No. 91F; from facilities at Pittsburgh, PA to Allegeny County, PA in Sub-No. 98F; from facilities in Denison, Carroll, Iowa Falls, Sioux City, Ft. Dodge and Des Moines, IA, Crete, Omaha and Lincoln, NE to Crawford, Carroll, Hardin, Woodbury, Webster and Polk Counties, IA, Saline and Lancaster Counties, and Omaha, NE, in Sub-No. 99F, from facilities in Warren County, MS to Warren County, MS in Sub-No. 103F; from Cokato, Faribault and Plainview, MN to Rice, Wabasha and Wright Counties, MN in Sub-No. 104F; from Austin and Owatonna, MN to Mower ankd Steele Counties, MN in Sub-No. 110F; from facilities at Ogallala and McCook, NE, Laredo, TX and Denver, CO to Keith and Red Willow Counties, NE, Webb County, TX and Denver, CO in Sub-No. 111F; from Arcadia, WI to Trempealeau County, WI in Sub-No. 113F; from facilities at Paw Paw, MI, Franklin, ME and Middleport, NY to Van Buren County, MI, Hancock County, ME and Niagara County, NY in Sub-No. 116F; from facilities at Biron and Stevens Point, WI, Chicago, IL, Waseca, MN, Denver, CO, Old Saybrook, CT, Atlanta, GA, Minneapolis, MN, Buffalo, NY, Gallatin, TN and Merrifield, VA to Wood and Portgage Counties, WI, Chicago, IL, Waseca County, MN, Denver, CO, Middlesex County, CT, Atlanta, GA, Minneapolis, MN, Buffalo, NY, Sumner County, TN, and Fairfax County, VA in Sub-No. 118F; from facilities in Britt and Mason City, IA to Hancock and Cerro Gordo Counties, IA in Sub-No. 119F; from Green River, WY to Sweetwater County, WY in Sub-No. 121F; from Decorah, IA, Thomaston and Willimantic, CT to Winneshiek County, IA, Litchfield and Windham Counties, CT in Sub-No. 122F; from Norwood, NJ, facilities in Winona, MN and Eau Claire, WI, Rochelle, IL, facilities at Blair, Fremont, Portgage and Madison, WI to Bergen County, NJ, Winona County, MN, Eau Clair County, WI, Ogle County, IL, Trempealeau, Waupaca, Columbia and Dane Counties, WI in MC-135032 Sub-Nos. 6 and 13; from Sioux City, IA, Hopkins and Mankato, MN to Woodbury County, IA, Hennepin and Blue Earth Counties, MN in Sub-No. 131F; from facilities at Hamlin, Holley and Williamson, NY to Orleans, Monroe and Wayne Counties, NY in Sub-No. 133F; from Austin, and Owatonna, MN, to Mower and Steele Counties, MN in Sub-No. 135F, from Green Bay, WI to Brown County, WI in Sub-Nos. 136F and 155F; from Maumee and Holland, OH to Lucas County, OH in Sub-No. 137F, from Orange, CA, Winona, MN and Delano, PA to Orange County, CA, Winona County, MN and Schuylkill County, PA in Sub-No. 138F; from facilities in Blair and Portgage, WI to Trempealeau and Columbia Counties, WI in Sub-No. 139F; from facilties at Menomonie, Cameron, Vesper, Wisconsin Rapids and Eau Claire, WI to Dunn, Barron, Wood, and Eau Claire Counties, WI in Sub-No. 144F; from St. Elmo, IL to Fayette County, IL in Sub-No. 145F; from facilities at Addison, TX to Dallas County, TX in Sub-No. 147F; from North Norwich and Ontario Center, NY to Chenango and Wayne Counties, NY in Sub-No. 1149F; form Port Clinton, OH to Ottawa County, OH in Sub-No. 150F; from Linden, NJ and facilities at Phoenix, AZ to Union County, NJ and Phoenix, AZ in Sub-No. 152F; from Marshalltown, IA to Marshall County, IA in Sub-No. 153F; from facilities at Rochell, St. Charles and Chicago, IL to Ogle and Kane Counties and Chicago, IL in Sub-No. 157F; from facilities at New Bedford, MA, Columbus, OH, Kansas City, KS, Union, NJ, Tampa, FL, Charlotte, NC and St. Louis, MO to Bristol County, MA, Columbus, OH, Kansas City, KS, Union County, NJ, Hillsborough County, FL, Mecklenburg County, NC and St. Louis, MO in Sub-No. 158F; and from facilities at Holcomb, KS to Finney County, KS in Sub-No. 159F; (3) change one-way to radial authority between the cities and

counties named above and points througout the U.S. in all certificates; (4) eliminate originating at and/or destined to restrictions in Sub-Nos. 4, 6, 14, 19, 23, 24, 25, 26, 32, 33, 35, 38, 41, 45, 48, 50, 53, 57, 61, 62, 65, 67, 68, 71, 77, 80, 81, 82, 83, 85F, 86F, 98F, 99F, 103F, 111F, 116F, 117F (part 3) 118F, 119F, 139F, 144F, 147F, 157F and 158F and MC-13502 Sub-No. 13; (5) eliminate restrictions against handling commodities in bulk or commodities in bulk in tank vehicles in Sub-Nos. 6, 19, 23, 24, 25, 26, 32, 33, 35, 38, 41, 48, 53, 61, 62, 65, 67, 68, 70, 71, 76, 77, 80, 81, 82, 83, 85F, 86F, 91F, 99F, 103F, 105F, 110F, 116F, 119F, 121F, 131F, 133F, 135F, 137F, 138F, 144F, 145F, 146F, 153F and 159F; (6) eliminate the exception of service to AK and HI in Sub-Nos. 14, 28, 91F, 138f and 144F; (7) eliminate the restriction to shipments having a prior or subsequent movement by rail in Sub-No. 19; and (8) eliminate the restriction against the transportation of hides in Sub-Nos. 6, 19, 24, 26, 32, 33, 35, 48, 53, 61, 65, 67, 70, 71, 76, 77, 81, 82, 83, 85F, 86F, 99F, 105F, 110F, 119F, 139F, 146F, and 159F.

MC 138134 (Sub-12)X, filed: August 21, 1981. Applicant: DONALD HOLLAND TRUCKING, INC., 1300 Main Street Road, Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Applicant seeks to remove restriction in its Sub-Nos. 1, 3, 5, 7 and 9 to (1) broaden the commodity description in Sub-No. 1 from silicon metal, manganese metal, ferro alloys, pig iron and scrap metal to "metal products"; in Sub-Nos. 3 and part (1) of 7 from corn products to "food and related products" and in Sub-Nos. 5 and 9 from calcium carbide to "chemicals and related products" and (2) broaden the territorial description to between points in the the United States, under continuing contract(s) with named shippers in all permits.

MC 138616 (Sub-2)X, filed: August 24, 1981. Applicant: CAMPOS DELIVERY SERVICE, INC., Four Voe Place, Monterey, CA 93940. Representative: Eldon M. Johnson, 650 California St., Suite 2802, San Francisco, CA 94108. Applicant seeks to remove restrictions in its Sub-No. 1 certificates to (1) remove exceptions to general commodities (except classes A and B explosives); (2) replace San Jose Municipal Airport with Santa Clara County, CA, in its lead; and San Francisco International Airport and Oakland International Airport with San Mateo County, CA and Oakland, CA in Sub-No. 1; and (3) remove restrictions requiring traffic to have an immediately prior or subsequent movement by air in both certificates.

MC 14045 (Sub-5)X, filed July 27, 1981, previously published in the Federal Register of August 18 and 28, 1981, republished as follows: Applicant: LOS ANGELES-YUMA FREIGHT LINES, INC., P.O. Box 4849, Kofa Station, Yuma, AZ 85364. Representative: Harold G. Hernly, Jr., 110 South Columbus Street, P.O. Box 1281, Alexandria, VA 22313. Applicant seeks to remove restrictions in its lead and in the operating rights acquired in No. MC-F-14601 to (1) broaden its commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)"; (2) broaden the irregular-route authority from "between Yuma, AZ, on the one hand, and, on the other, points in Arizona between 30 miles of Yuma," to "between points in Yuma County, AZ" in the lead; (3) authorize service to all intermediate points on regular route authority in MC-F-14601; and (4) expand off-route point authority from "points within 25 miles of Hyder and Roll, AZ," to "points in Yuma and Maricopa Counties, AZ" in MC-F-14601, and expand the off-route points of Calexico, CA, and points on the Los Angeles and Los Angeles Harbor, CA commercial zones, and points in the Los Angeles and Los Angeles Harbor, CA commercial zones, and points on the indicated portions of specified highways to "points in Imperial, Los Angeles, Orange and Ventura Counties, San Bernadino and Riverside Counties and the Los Angeles Harbor Commercial Zone" in the lead.

MC 143775 (Sub-164)X, filed May 13, 1981, previously noted in the Federal Register of June 1, 1981, republished as follows: Applicant: PAUL YATES, INC., POB 1059, Glendale, AZ 85301. Representative: O. Paul Yates (same address as above). Applicant seeks to remove restrictions in 14 of its certificates. This Board previously broadened these authorities by (1) expanding the general commodity descriptions; (2) removing vehicle restrictions, restrictions limiting service to shipments moving on freight forwarder bills of lading, originating at and destined to restrictions, and the AK and HI restrictions; (3) replacing city-wide authority with counties and (4) expanding one-way authorization to two-way radial operations. Applicant also sought to remove facilities restrictions limiting service to the transportation of goods moving from the facilities of named shipper associations at unspecified locations in Sub-Nos. 82, 100, 103, and 146. This was proper under the restriction removal rules, as these constitute restrictions on general commodities service, but the Board through administrative oversight failed to include these restrictions among those to be removed in the original Federal Register caption summary. Notice is hereby given that applicant seeks to remove shipper association restrictions where they appear in the above-referenced certificates.

MC 145494 (Sub-14)X, filed August 31, 1981. Applicant: EDINA CARTAGE CO., P.O. Box 42, Mauricetown, NJ 08329. Representative: Laurence J. Distefano, Jr., Esq., 1101 Wheaton Avenue, P.O. Box 269, Millville, NJ 08332. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) broaden the commodity description from plastic and burlap articles to "plastic and textile products"; (2) replace authority to serve named facilities with authority to serve Newark, NJ; (3) Broaden the territorial description from one-way authority to radial authority; and (4) remove the "AK and HI" exceptions on its nationwide authority.

MC 147771 (Sub-4)X, filed: August 21, 1981. Applicant: RALPH J. MARQUARDT & SONS, INC., P.O. Box 1040, Yankton, SD 57078. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its MC-147771 Sub-No. 3 certificate and MC-148144 Sub-No. 1F permit to (1) broaden the commodity descriptions as follows: to "food and related products" from meats, meat products and meat by products, and articles distributed by meat packinghouses in Sub-No. 3; to "metal products" from aluminum in Sub-No. 1F; (2) remove the "commodities in bulk and hides" restriction in Sub-No. 3; (3) remove the plantsite restriction in Sub-No. 3; (4) remove the "originating at and destined to" restriction in Sub-No. 3; (5) expand to Charles Mix County, SD, from Wagner, SD, in Sub-No. 3; (6) replace existing one-way authority with radial authority in Sub-No. 3; and (7) broaden the territorial description to authorize service between points in the U.S. under continuing contract(s) with a named shipper in Sub-No. 1F.

MC 148445 (Sub-8)X, filed: August 27, 1981. Applicant: WLD TRUCKING COMPANY, 4527 N. 16th Street, Phoenix, AZ 85064. Representative: Phil B. Hammond, 3003 N. Central, Suite 2201, Phoenix, AZ 85012. Applicant seeks to remove restrictions in permit No. MC-143910 Sub-No. 4, acquired in MC-F-79013, to (1) remove the "in bulk" restriction from the commodity description and (2) broaden the territorial description to between points in the U.S. under continuing contract(s) with a named shipper.

MC 148907 (Sub-2)X, filed: August 31, 1981. Applicant: R. M. ORMES TRANSPORTATION, INC., 20 Atlantic Avenue, Woburn, MA 01801. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Applicant seeks to remove restrictions in its lead and Sub-No. 1 certificates to (1) broaden the commodity description from household goods to "household goods and furniture and fixtures" in both certificates; and (2) expand the territorial area of Brockton, MA and points within 25 miles thereof, to points in Plymouth, Norfolk, Bristol, Suffolk, Middlesex and Essex, Counties, MA, in Sub-No. 1.

MC 149546 (Sub-23)X, filed: August 19, 1981. Applicant: D & T TRUCKING CO., INC., P.O. Box 12505, New Bighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Applicant seeks to remove restrictions in its Sub-No. 10 certificate to (1) broaden commodity description to: (a) "food and related products" from frozen meats, and sugar on sheet 6, and (b) "chemicals and related products" from materials and supplies used in the manufacture of paints and varnishes on sheet 7; (2) remove restrictions against the transportation of foodstuffs, and commodities in bulk in tank vehicles, and restricting service in specific containers and vehicles from authorities in paragraphs 15, 16, 17 and 19; (3) remove restrictions limiting service to (a) the transportation of traffic having a prior movement by water, (b) the transportation of traffic originating at and destined to the named origin and destination points, and (c) prohibiting the transportation of TOFC and COFC traffic, in paragraphs 15, 16, and 19; and (4) substitute radial authority in place of one-way authority in paragraphs 15, 16, 17, and 19.

MC 150060 (Sub-1)X, filed: August 28, 1981. Applicant: FLOYD DUNFORD, LTS., Box 381, Peterborough, Ontario, Canada K9J 6Z3. Representative: William J. Lavelle, Esq., 2310 Grant Building, Pittsburgh, PA 15219. Applicant seeks to remove restrictions in its lead certificate to: (1) expand the commodity description from nepheline syenite, to "chemicals and related products"; (2) remove the restriction "in bulk, in tank vehicles"; (3) expand from ports of entry on the international boundary line between the United States and Canada located on the Niagara River in New York, to "ports of entry on the international boundary line between the United States and Canada located in New York"; (4) change city to county-wide authority: Knox, Parker and Marienville, PA, to Clarion, Armstrong and Forest Counties, PA; (5) remove the facilities restriction; and (6) change one-way to radial authority.

[FR Doc. 81-26392 Filed 9-9-81; 8:45 am]
BILLING CODE 7035-01-M

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[Ex Parte No. 395 (Sub-No. 1)]

## Keokuk Northern Real Estate Co. and Keokuk Junction Railway Co., Election of Exemption

September 3, 1981.

Ex Parte No. 395 (Sub-No. 1), Notice of Election of Exemption, filed August 26, 1981, by KEOKUK NORTHERN REAL ESTATE COMPANY (KNRECO) and KEOKUK JUNCTION RAILWAY (KJ). Representative: John D. Heffner, 700 Montgomery Building, 1776 K Street, Washington, DC 20006. KNRECO is an IA corporation which presently holds no operating authority. On August 19, 1981, KNRECO purchased 4 miles of abandoned railroad right-of-way and track formerly owned by the Chicago, Rock Island and Pacific Railroad Company in Keokuk, IA. The acquisition was exempt from our jurisdiction pursuant to 49 U.S.C. 10907 KNRECO intends to initiate rail service over the property through its affiliate KJ. Pursuant to 49 U.S.C. 10910(g) KNRECO and KJ have notified the Commission of their intent to exempt themselves from the acquisition and operation provisions of 49 U.S.C. 10901 and the securities provisions of 49 U.S.C. 11301. KNRECO and KJ have filed evidence of their financial responsibility.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 81-26390 Filed 9-9-81; 8:45 am]
BILLING CODE 7035-01-M

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[Finance Docket No. 29685]

## Vermont Railway, Inc., Exemption of Trackage Rights Over Boston and Maine Corp.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Exemption.

**SUMMARY:** The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 11343 the acquisition of trackage rights by Vermont Railway, Inc. (VTR) over a 4.95-mile segment of the Boston and Maine Corporation (B&M) between Hoosic Junction, NY, and White Creek, VT.

**DATES:** This exemption is effective 30 days following the date of publication in the Federal Register. Petitions for reconsideration of this decision must be filed no later than 20 days following this publication.

**ADDRESSES:** Send pleadings to: (1) Interstate Commerce Commission, Section of Finance, Room 5414, 12th Street and Constitution Avenue, NW., Washington, D.C. 20423, and (2) Petitioners' representatives: Samuel Bloomberg, 2 Burlington Square, Burlington, VT 05406; Sidney Weinberg, 150 Causeway Street, Boston, MA 02114.

All pleadings should refer to Finance Docket No. 29685.

**FOR FURTHER INFORMATION CONTACT:** Ellen D. Hansen (202) 275-7245.

**SUPPLEMENTARY INFORMATION:** VTR seeks to acquire trackage rights over B&M's Bennington Branch, which extends approximately 4.95 miles between Hoosic Junction, NY, where it connects with B&M's east-west main line (the Fitchburg Line), and White Creek, VT, where it connects with VTR's north-south line extending from White Creek to Burlington, VT.

Currently, B&M and VTR interchange freight at the eastern terminus of the segment at White Oak three times a week. Under the proposal, the two carriers would perform a daily interchange at Hoosic Junction instead. VTR would assume responsibility for the operation and maintenance of the B&M Bennington Branch, on which no shippers or receivers of freight are located. Petitioners state that no employees will be adversely affected and that there will be no significant effect on competitors, shippers, or the environment.

The acquisition by a rail carrier of trackage rights over another rail line requires the Commission's prior approval under 49 U.S.C. 11343, in accordance with regulations established in *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*, 49 CFR Part 1111 (1979), See also *Railroad Consolidation Procedures*, 363 I.C.C. 200 (1980).

Pursuant to 49 U.S.C. 10505, we are empowered to exempt a transaction from this requirement if we find that (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a, and (2) either the transaction is of limited scope or regulation is not necessary to protect shippers from an abuse of market power. We believe the proposal satisfies the criteria of section 10505 and that the requested exemption should be granted.

This extension of VTR's routes by less than 5 miles will not allow an

appreciable expansion of VTR's service. It will simply continue an arrangement between VTR and B&M which has been in effect for some time. It will provide better service to the shipping public by substituting a daily interchange service between the two carriers for the present thrice-weekly arrangement. The proposal will clearly be beneficial to interstate commerce.

Our detailed scrutiny of the transaction is not necessary to carry out any of the 15 objectives listed in the rail transportation policy of section 10101a. Indeed, our exemption of this minor transaction from regulation will facilitate at least one of those objectives: to minimize the need for regulatory control and to require expeditious decisions when regulation is necessary. 49 U.S.C. 10101a(2).

Additionally, the transaction is of limited scope because (1) it involves only a small segment of track; (2) it will not result in significantly changed rail operations; and (3) it will not adversely affect railroad employees, other carriers, or the environment. Thus, having concluded that the transaction is of limited scope, we need not determine whether regulation is necessary to protect shippers from the abuse of market power. We note, however, that, since the exemption will improve an interchange operation which has been in effect for some time, it may actually have a benefical impact upon shippers.

In granting this exemption we may not relieve a carrier of its obligation to protect the interests of employees. See, 49 U.S.C. 10505(g)(2). We have determined that the employee protective conditions set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Medocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), satisfy the statutory requirements for protection of employees involved in trackage rights transactions. Accordingly, these conditions are imposed here as a condition to exercise of this exemption.

This decision is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

*It is ordered:*

(1) We exempt VTR's acquisition of trackage rights over the B&M rail line from 49 U.S.C. 11343 subject to the employee protective conditions imposed in *Norfolk & Western Ry., Co.—Trackage Rights—BN*, 354 I.C.C. 650 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

(2) Within 60 days after this transaction is consummated, VTR and B&M shall submit three copies of a sworn statement showing all journal entries necessary to record the transaction.

(3) This exemption shall continue in effect for one year from the effective date of this decision. The parties must consummate the transaction during that time in order to take advantage of this exemption.

(4) Notice of our action shall be given to the general public by delivery of a copy of this decision to the Director, *Federal Register*, for publication.

(5) This decision shall be effective 30 days following the date of publication in the Federal Register.

(6) Petitions to stay the effective date of this decision must be filed no later than 10 days after the date of publication in the Federal Register.

(7) Petitions to reopen this proceeding for reconsideration must be filed no later than 20 days after the date of publication in the Federal Register.

Decided: September 2, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 81-26591 Filed 9-9-81; 8:45 am]

BILLING CODE 7035-01-M

## INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

### Agency for International Development

### Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Forty-Fifth meeting of the Board for International Food and Agricultural Development (BIFAD) on September 24, 1981.

The purpose of the meeting is to review the status of the visit of the Title XII team to Egypt, the CID/Yemen project, and A.I.D. Memoranda of Understanding with Universities; discuss A.I.D. university Strengthening Programs; and receive reports on activities of the Joint Committee on Agricultural Development (JCAD) and the Joint Research Committee (JRC); and (if ready) the A.I.D. response to the General Accounting Office (GAO) report on Title XII. The Board will also meet with the BIFAD Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:15 p.m. The location of the meeting had not been determined as of the publication of this notice; persons desiring this information should telephone (202) 632-7937. The meeting with the BIFAD Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m. This meeting will be held in Room 2248, New State Department Building, 22nd and C Streets, NW, Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit.

Dr. Erven J. Long, Coordinator for Title XII Strengthening Grants and University Relations, Bureau for Science and Technology, Agency for International Development (A.I.D.), is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: September 4, 1981.

Erven J. Long,

*A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.*

[FR Doc. 81-25543 Filed 9-9-81; 8:45 am]

BILLING CODE 4710-02-M

## INTERNATIONAL TRADE COMMISSION

### Appointment of Individuals To Serve as Members of Performance Review Boards

**AGENCY:** International Trade Commission.

**ACTION:** Appointment of individuals to serve as members of Performance Review Boards.

**SUPPLEMENTARY INFORMATION:** The Chairman of the International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Boards (PRB):

Chairman of PRB—Commissioner Michael J. Calhoun.
Member—Commissioner Catherine Bedell.
Member—Commissioner Paula Stern.
Member—Charles W. Ervin.
Member—E. William Fry.
Member—Lorn L. Goodrich.
Member—Norris A. Lynch.
Member—Michael H. Stein.

Notice of these appointments is being published in the Federal Register

pursuant to the requirement of 5 U.S.C. 4313(c) (4).

**FOR FURTHER INFORMATION CONTACT:** Terry P McGowan, Director of Personnel, U.S. International Trade Commission (202) 523–0182.

Issued: September 3, 1981.

By order of the Chairman.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 81–26423 Filed 9–9–81; 8:45 am]

BILLING CODE 7020–02–M

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[Investigation No. 337–TA–97]

## Certain Steel Rod Treating Apparatus and Components Thereof; Commission Hearing on the Presiding Officer's Recommendation and on Relief, Bonding, and the Public Interest, and the Schedule for Filing Written Submissions

**AGENCY:** International Trade Commission.

**ACTION:** The scheduling of a public hearing and written submissions in investigation No. 337–TA–97, Certain Steel Rod Treating Apparatus and Components Thereof.

Notice is hereby given that the presiding officer has issued a recommended determination that there is a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the unauthorized importation into the United States and sale of a certain steel rod treating apparatus that is the subject of the Commission's investigation. Accordingly, the recommended determination and the record of the hearing have been certified to the Commission for review and a Commission determination. Interested persons may obtain copies of the nonconfidential version of the presiding officer's recommendation (and all other public documents on the record of the investigation) by contacting the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 161, Washington, D.C. 20436, telephone 202–523–0161.

*Commission Hearing:* The Commission will hold a public hearing on October 14, 1981, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m. The hearing will be divided into two parts. First, the Commission will hear oral arguments on the presiding officer's recommended determination that a violation of section 337 of the Tariff Act of 1930 exists. Second, the Commission will hear presentations concerning appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond during the Presidential review period in the event that the Commission determines that there is a violation of section 337 and that relief should be granted. These matters will be heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden of this hearing upon the parties.

*Oral Arguments:* Any party to the Commission's investigation or any interested Government agency may present an oral argument concerning the presiding officer's recommended determination. That portion of a party's or an agency's total time allocated to oral argument may be used in any way the party or agency making argument sees fit, i.e., a portion of the time may be reserved for rebuttal or devoted to summation. The oral arguments will be held in the following order: complainant, respondents, the Commission investigative attorney, and Government agencies. Any rebuttals will be held in this order: respondents, complainant, the Commission investigative attorney, and Government agencies. Persons making oral argument are reminded that such argument must be based upon the evidentiary record certified to the Commission by the presiding officer.

*Oral Presentations on Relief, Bonding, and the Public Interest:* Following the oral arguments on the presiding officer's recommendation, parties to the investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. This portion of the hearing is quasi-legislative in nature; presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer, and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard from the parties and government agencies in the same order as oral arguments on the recommended determination, followed by public interest groups and interested members of the public.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) an order which could result in one or more respondents being required to cease and desist from engaging in unfair methods of competition or unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations which address the form of relief, if any, which should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare (2) competitive conditions in the U.S. economy (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in hearing presentations concerning the amount of the bond, if any, which should be imposed.

*Time Limit for Oral Argument and Oral Presentations*: Parties and Government agencies will be limited to a total of 30 minutes (exclusive of time consumed by questions from the Commission or its advisory staff) for making both oral argument on violation and oral presentations on remedy, bonding, and the public interest. Persons making only oral presentations on remedy, bonding, and the public interest will be limited to 10 minutes (executive of time consumed by questions from the Commission and its advisory staff). The Commission may in its discretion expand the aforementioned time limits upon receipt of a timely request to do so.

*Written Submissions*: In order to give greater focus to the hearing, the parties to the investigation and interested Government agencies are encouraged to file briefs on the issues of violation (to the extent they have not already briefed that issue in their written exceptions to the presiding officer's recommended determination), remedy, bonding, and the public interest. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's considertation. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, bonding, and the public interest. Written

submissions on the question of violation must be filed not later than the close of business on September 22, 1981; written submissions on the questions of remedy, bonding and public interest must be filed not later than the close of business on September 29, 1981. During the hearing, the parties may be asked to file posthearing briefs.

*Written submission on Motion No. 97–54, Complainant's Motion for an Accelerated Hearing Schedule and Decision Prior to the End of October 1981.*

In adopting the schedule set forth above, the Commission has considered Complainant's Motion for an Accelerated Hearing Schedule and Decision Prior to October 1981 (Motion No. 97–54), Respondents' Response in Opposition Thereto, and the Commission investigative attorney's submission.

Motion No. 97–54 will be held in abeyance pending a future submission from the complainant. In the event that Complainant wishes to supplement Motion No. 97–54, the Commission requests a discussion of the following:

(1) Whether there is information showing a sufficient factual likelihood that the subject apparatus or any components thereof will be imported prior to December 1981?

(2) Whether there is any other remedial measure available, including the Commission's power to issue a temporary exclusion order pursuant to section 337(e) of the Tariff Act of 1930, 19 U.S.C. 1337(e) or a cease and desist order pursuant to section 337(f) of the Tariff Act of 1930, 19 U.S.C. 1337(f)?

*Notice of Appearance*: Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by September 22, 1981.

*Additional Information*: The original copy and 11 true copies of all briefs on violation must be filed with the Office of the Secretary not later than September 22, 1981; the original copy and 11 true copies of all briefs on remedy, bonding and public interest must be filed with the Office of the Secretary not later than September 29, 1981. Any person desiring to discuss confidential information, or to submit a document (or a portion thereof) to the Commission in confidence, must request in camera treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. All documents or argumelnts containing confidential information granted in camera treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the Federal Register of January 28, 1981. 46 FR 9263.

FOR FURTHER INFORMATION CONTACT: Warren Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0375.

Issued: September 2, 1981.

By order of the Commission.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 81-26422 Filed 9-9-81; 8:45 am]

BILLING CODE 1020-02-M

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[Investigation No. 104–TAA–4]

## Steel Units for Electrical Transmission Towers From Italy; Change of Date of Public Hearing

Notice is hereby given that the public hearing to be held in connection with United States International Trade Commission investigation No. 104–TAA–4, galvanized fabricated structural steel units for the erection of electrical transmission towers from Italy, will begin at 10 a.m., e.d.t., Friday, October 23, 1981, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E. Street, NW., Washington, D.C. A hearing date of October 7, 1981, had previously been announced in the Commission's notice of institution of the investigation as published in the Federal Register of July 15, 1981 (46 FR 36780). Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.d.t.) October 15, 1981. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10 a.m., e.d.t., on October 16, 1981, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before October 16, 1981.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR 207), and Part 201, subparts A through E (19 CFR 201).

Issued: August 31, 1981.

By order of the Commission.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 81-26424 Filed 9-9-81; 8:45 am]

BILLING CODE 7020-02-M

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[Investigation No. 731–TA–30 (Final)]

## Unrefined Montan Wax From East Germany

*Determination*

On the basis of the record [1] developed in investigation No. 731–TA–30 (final), the Commission unanimously determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)), that an industry in the United States is materially injured by reason of imports from East Germany of unrefined montan wax, provided for in item 494.20 of the Tariff Schedules of the United States, which the Department of Commerce has determined to be sold in the United States at less than fair value (LTFV).

*Background*

The Commission instituted this investigation effective March 4, 1981, following a preliminary determination by the Department of Commerce that unrefined montan wax from East Germany is being, or is likely to be, sold in the United States at LTFV.

Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on March 25, 1981 (46 FR 18633). The hearing was held in Washington, D.C. on July 20, 1981, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

Our determination is based on the considerations set forth below.

*Domestic industry*

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that production." [2] "Like product" is defined

[1] The record is defined in § 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] 19 U.S.C. 1677(4)(A).

as a product which is like, or in the absence of like, most similar in characteristics and uses with, the article under investigation.[2]

The imported product which is the subject of this investigation is unrefined montan wax from East Germany. Unrefined montan wax is a mineral wax distilled from lignite with the use of chemical solvents. There are five grades of the wax being imported into the United States at the present time. Four of the five grades of the imported wax are used primarily in the production of one-time carbon paper.

There are several domestic products which are like-product candidates with respect to the imported montan wax. The first is unrefined montan wax produced by American Lignite Products Co. (Alpco), of Ione, Calif. It, like the imported wax, is distilled from lignite with the use of chemical solvents and is used primarily in the production of one-time carbon paper. Alpco is the only domestic producer of this product in the United States. The other products are Bareco, Moore & Munger, Frye and Carnauba waxes.

The Moore & Munger, Frye, and Bareco waxes are modified microcrystalline waxes. They are produced from different raw materials, through a different production process than unrefined montan wax, and have a different chemical composition. Carnauba wax is a natural vegetable wax which is also derived from a different raw material, through a different production process than unrefined montan wax, and it also has a different chemical makeup.

It is clear from the hearing transcript that the substitutability of Carnauba wax for montan wax is not direct, but requires changes in the formula for the end product.[3] Moreover, there is not a large amount of subsitution of Carnauba was for unrefined montan wax because it is priced significantly higher.[4]

Although petroleum-based Bareco, Moore & Munger, and Frye waxes were priced competitively with Alpco's wax in 1979, by mid-1980 they were priced higher. Furthermore, substitution of these products for unrefined montan wax would require changes in the ink formulations and could affect the quality of the end product.[5]

For these reasons, we conclude that the would be substitutes are not sufficiently akin to the imported montan wax to be considered like products. We do find the montan wax produced by Alpco to be like the imported wax. Accordingly, since Alpco is the only domestic producer of the product which is like the unrefined wax from East Germany sold at less than fair value (LTFV), it comprises the domestic industry.

Section 771(4)(D) of the Act directs the Commission to assess the effect of dumped imports in relation to the U.S. production of a like product if available data permit the separate identification of that product in terms of such criteria as the production process or the producters' profits. In this investigation, however, the like product constituties almost all of production of the industry and, therefore, total industry data are considered to give an accurate reflection of the industry.

*Material injury by reason of LTEV imports*

Section 771(7) of the act directs the Commission to consider, among other factors, (1) the volume of imports of the merchandise under investigation, (2) their impact on domestic prices, and (3) the consequent impact on the domestic industry.[6]

*Volume of imports.*—Imports of unrefined montan wax from East Germany increased steadily from 1977 through 1980, with a substantial increase shown in 1980. This increase in imports reflected an effort to buildup inventories in anticipation of a dock strike in the fall 1980. However, the build-up continued through the end of the year, even after the threat of a dock strike had passed. Subsequently, there was a radical drop in the volume of imports in the first quarter of 1981, and then a substantial increase in the second quarter of 1981. Thus, in the period June 1980 through June 1981, imports increased not only in absolute volume, but also relative to U.S. consumption, with the ratio of shipments of imports to consumption reaching it highest level in the forth quarter of 1980. Overall, shipments of imports increased their share of the U.S. market by eight percentage points from 1977 through 1980. Despite a decline in the absolute volume of shipments of imports in the first six months of 1981, their share of the market increased by two percentage points when compared with the corresponding period in 1980.

*Effect of LTFV imports on domestic prices.*—Price comparisons were made between Alpco's type 1650 wax and the imported Romonta type 6715 wax. These two products were chosen for comparison because they are the two products used most often in the production of one-time carbon paper and are the two that compete most directly. In every quarter in the three and a half years in which the comparisons were made, the imported product undersold the domestic product by weighted average margins ranging from 9.3 percent to 24.2 percent.[7] In July-September of 1980, and again in January-March of 1981, the domestic producer lowered its price by 2.5 cents and 1.5 cents, respectively, in an attempt to compete with the imported wax. These price reductions during a period of increasing production costs, coupled with the large margins of underselling, are clear indications of price depression.

Evidence on lost sales was not overwhelming, however, one company cited as a lost sale substantially decreased its purchases of the domestic product and increased its purchases of the imported product citing price as a major factor in its decision. Other companies show increased purchases of the imported product while purchases of the domestic product remained stable.[8]

*Impact on the domestic industry.*—The economic indicators present a picture of a domestic industry in reasonably good health up until 1980. Production in the U.S. industry increased from 1978 to 1979 and the ratio of production to capacity during this time period was above 90 percent. Domestic shipments increased from 1978 to 1979 and inventories remained at a low level. Financial data provided by Alpco show that its gross profit increased from 1978 to 1979 as did its operating profit and net profit before taxes.

From 1980 to the present time, however, the economic indicators give clear evidence of an industry suffering material injury. Production declined in 1980 and again in the first six months of 1981. The ratio of production to capacity fell sharply, in part because of the decline in production, but also because of increaes in capacity resulting from the installation of new, more efficient equipment. Shipments of the domestic producer dropped substantially from 1979 to 1980, a trend that has continued in the first months of 1981. Inventories

[2] 19 U.S.C. 1677(10).

[3] Hearing Transcript at 138, 139, 149, and 150.

[4] Staff Report at A-38.

[5] Id. at A-39.

[6] Specific company-related data are confidential and cannot be discussed in this public document.

[7] Pricing information was also obtained on the substitute products. As mentioned earlier at the present time they are priced significantly higher than the unrefined montan wax and do not seem to be a depressing factor in the market.

[8] Chairman Alberger, Vice Chairman Calhoun, and Commission Stern also note that the price sensitivity of unrefined montan wax is difficult to determine. There is testimony that at least one purchaser was willing to switch with a price difference of only 1 cent a pound while others continued to puchase the domestic wax although it was being undersold by almost 10 cents a pound.

remained fairly low but show an increase at the end of June 1980, the time the effect of the injury first became apparent. In fact, by July of 1980, the producer indicates he had no more back orders and was forced to begin producing as the orders came in. Alpco reported a number of plant shut-downs in the period July-December of 1980. This drop in production and shipments had its effect on employment, which dropped substantially. Although some of this drop in employment may have been the result of the new, more efficient machinery, much of it attributable to the decline in production and shipments, and the consequent plant shut-downs.

Perhaps the most telling indication of material injury is in the financial experience of the domestic producer. In the accounting year ending on May 31, 1981, Alpco's net sales fell by almost 30 percent. Operating profit fell sharply in 1981 as did the operating profit margin. The company showed a pre-tax loss which resulted from declining sales and increased interest expense.

Alpco apparently first became aware of its declining orders in early 1980 and noticed the impact of the imports in June of 1980. This coincides with the time period when the margins of underselling were at their highest. During 1978 and 1979, prior to the period of Commerce's investigation, Alpco was producing at near capacity and doing so profitably. The margins of underselling declined only in January–March of 1981, when the average price of the domestic product was reduced, thus further aggravating Alpco's financial difficulties.

The respondent has argued that if there is any material injury suffered by the domestic industry, that this injury is due entirely to "vicissitudes unrelated to imports," namely, inefficiencies which were exacerbated by costs of solvents and natural gas, the high costs of raising money for investments, unwillingness to maintain higher inventories, the low wax content of its lignite, a transportation cost disadvantage, declining export sales and price competition from Carnauba wax. This view is not supported by the record in this investigation.

First, the domestic industry did have certain operating inefficiencies when it was purchased by the current owners in 1977. This was admitted by the petitioners at the hearing.[9] However, despite these inefficiencies Alpco was doing well in 1978 and 1979, while being undersold by an average weighted margin of approximately 13 percent. These admitted inefficiencies, themselves, therefore, did not seem to have an injurious effect although Alpco's new owners recognized them from the beginning and made substantial investments in new machinery to improve their efficiency. In late 1979 and in 1980, however, when Alpco should have been able to realize the benefits of its investments, the margin of underselling increased to more than 20 percent. Despite its efforts to be more efficient, the domestic producer was hit by substantial cost increases for energy and solvent. Its attempts to pass these costs on to its customers were thwarted by the low price of the imported product. In fact, petitioner was forced to roll back its prices. This price reduction did not increase sales, however, as the price of the imported product increased only slightly and the margin of underselling remained above 20 percent. The resulting drop in profitability had the effect of interfering with the ability of Alpco to raise the capital needed to make further investments in equipment to improve operating efficiencies, particularly with respect to energy usage.

As to respondents' argument that Alpco was unwilling to maintain high inventories, the company's ratio of production to capacity indicates that prior to 1980, Alpco was operating at more than 90 percent of capacity. Thus, it was producing and shipping almost as much as it could, with little product available for building inventories.

Higher transportation costs for shipping montan wax from California to carbon paper manufacturers, most of whom are located east of the Mississippi, place Alpco at a disadvantage when compared with the importer located in New Jersey. This disadvantage has been in effect, however, since Alpco's inception and whatever negative effect it may have had could not have been major since Alpco had no problem with declining sales prior to late 1979 and particularly 1980.

The legislative history of the Act indicates that the law does not contemplate that the cause of material injury from LTFV imports be weighed against other factors which may be contributing to over-all injury to the domestic industry. In this case, there are many factors which have contributed to the injury, but given the increasing volume of imports and the high margin of underselling, there is no doubt that these LTFV imports are a cause of material injury.

Issued: September 4, 1981.

By order of the Commission.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 81-26423 Filed 9-9-81; 8:45 am]

BILLING CODE 7020-02

[9] Transcript, at 12.

## DEPARTMENT OF JUSTICE

### Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *ITT Rayonier, Inc.*, Civil Action No. C81–1009, has been lodged with the United States District Court for the Western District of Washington. The proposed consent decree requires the payment of $40,000 in settlement of all civil penalty claims asserted in the case for violation of the Clean Water Act, 33 U.S.C. 1251 *et seq.*

The Department of Justice will receive written comments on or before October 13, 1981. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *ITT Rayonier, Inc.*, (D.J. Ref. No. 90–5–1–1–685).

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of Washington, 10th Floor, United States Courthouse, Seattle, Washington, 98104; at Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; and at the Environmental Defense Section, Land and Natural Resources Division, Department of Justice, Room 2644, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Defense Section, Land and Natural Resources Division, Department of Justice.

Carol E. Dinkins,

*Assistant Attorney General Land and Natural Resources Division.*

[FR Doc. 81-26385 Filed 9-9-81; 8:45 am]

BILLING CODE 4410-01-M

## NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 81-37]

### Report, Recommendations, Responses; Availability

• Highway Accident Report: *Direct Transit Lines, Inc., Tractor-Semitrailer/*

*Multiple-Vehicle Collision and Fire, U.S. Route 40, Frostburg, Maryland, February 18, 1981. (NTSB-HAR-81-3).*—Following investigation of this accident, the Board on August 19 issued these recommendations to the Federal Highway Administration:

Maintain strict surveillance of Direct Transit Lines, Inc., and initiate appropriate enforcement action, if necessary, to ensure that all previous safety compliance violations are corrected. (Class I, Urgent Action) (H-81-44)

Initiate a legislative effort which would require lessors and/or contractors of motor vehicle equipment which is used for interstate commerce to comply with all applicable Federal Motor Carrier Safety Regulations. (Class II, Priority Action) (H-81-45)

• Responses to NTSB Recommendations

*From the Federal Aviation Administration:* A-73-68 and A-74-5 (August 19).—It is not now necessary to initiate rulemaking to update a technical standard order; TSO-C78 is being revised under a new process, and FAA will issue an advisory circular recommending that operators modify their protective breathing equipment (PBE) to the new TSO, specify who is responsible for furnishing PBE, and provide additional PBE for flight attendants. (44 FR 20516, 4-5-79)

A-81-63 and -64 (August 19).—JT9D engine and maintenance manuals have recently been revised to highlight arc burn inspection by addition of a caution note, thus obviating the need for an airworthiness directive. FAA has issued a maintenance bulletin instructing principal airworthiness inspectors to emphasize that operators use extreme caution with any electrical equipment in the vicinity of titanium alloy fan blades to minimize the possibility of arc burn. (46 FR 31950, 6-18-81).

A-81-69 (August 19).—FAA does not agree that an airworthiness directive is warranted. On July 18, 1981, FAA issued a General Aviation Maintenance Bulletin, Notice 8620.14, requesting field inspectors to advise operators who have not performed a maximum altitude acceleration and surge margin check since engine installation do so at the first opportunity, but no later than the next hot section inspection. General Electric Service Bulletin 72-140, which delineates FAA-approved stall margin recovery techniques, is also referenced in Notice 8620.14. Results of performance checks are to be reported to FAA. (46 FR 35588, 7-9-81)

A-81-70 (August 24).—FAA is evaluating the structural integrity of the aircraft nose cowl attachment hardware which interfaces with the engine forward "A" flange. FAA has received a preliminary proposal from Pratt & Whitney Aircraft to increase the structural capability of the rear fan case "B" flange by increasing flange shear strength and incorporating flange attachments bolts having greater strain energy capacity. (46 FR 40953, 8-13-81)

*From the Federal Highway Administration:* H-80-21 through -23 (August 18).—FHWA continues to research wet pavement accidents and has recently issued Technical Advisory T 5040.7, Skid Accident Reduction Program, providing additional guidance on recommended practices and including several uses of weather data. Studies and reports, completed or underway or planned, include: "Effectiveness of Alternative Skid Reduction Measures—Executive Summary" (Report No. FHWA-RD-79-21, Nov. 1978), "Pavement Surface Texture—Significance and Measurement," "Alternatives for the Optimization of Aggregate and Pavement Properties Related to Friction and Wear Resistance—Executive Summary" (Report No. FHWA-RD-79-107, Oct. 1978), "Predictor Models for Seasonal Variations in Skid Resistance," and "Determining Pavement Reflectivity for Roadway Lighting." Programmed for FY 1982 is a study of directional reflectivity characteristic of various roadway pavement types under a range of wetness conditions typically encountered in the United States. Various design treatments to improve visibility of lane guidance information during wet weather will be evaluated in a cost-benefit analysis. An index such as the Wet Fatal Accident Index has potential as a management tool whereby States can monitor accident experience for a specific area or site during wet weather, but FHWA does not plan to use such index on a nationwide basis to establish a ranking of States since any comparison between States could not be totally objective. (45 FR 18209, 3-20-80)

H-80-52 through -57 (August 18).—These recommendations call for significant program modifications, some requiring substantial regulatory changes. FHWA is considering regulatory changes to Federal-aid Highway Program Manual 6-2-4-3. (NTSB comments on FHWA's proposed rule (45 FR 24505) were forwarded on July 17, 1980.) (45 FR 79206, 11-28-80)

*From the American Association of State Highway and Transportation Officials:* H-80-69 (August 21).—AASHTO's Executive Committee has recently approved modification of its Traffic Barrier Task Force to broaden its scope to the entire roadside environment, and to include members from the Bridges and Structures as well as the Design Subcommittees. The 1977 "AASHTO Guide for Selecting, Locating and Designing Highway Barriers" may be updated, and AASHTO may participate in developing training materials on installing and maintaining highway safety appurtenances including barriers. (45 FR 79205, 11-28-80)

*From the U.S. Coast Guard:* M-78-13 (August 19).—USCG provides report, prepared jointly with the American Bureau of Shipping, on bottom planting damage and wear caused by groundings of Great Lakes bulk carriers. Data indicate that increase is not due to deeper draft operation but to the newer, larger, and higher-powered vessels with self-unloading features, capable of making more round trips per season in restricted waterways. (43 FR 38961, 8-31-78)

*From the American Bureau of Shipping:* M-78-15 (August 20).—See related USCG response, above. (43 FR 23772, 6-1-78)

*From the American Gas Association:* P-81-16 (August 11).—The 1981 Pipeline Research Summary provides an overview of current R&D, through AGA, of the natural gas transmission industry. Three current programs directed by AGA to nondestructive testing evaluations for pipeline integrity are: "Evaluation of AE Technology," "Stress Measurement in Buried Pipelines," and "Evaluation of Acoustic Emission Analyses." (46 FR 42373, 8-20-81)

*From the Secretary of Transportation:* R-81-1 and -2 (August 4).—Reaffirms nonconcurrence in proposing legislation to authorize the Secretary to regulate the safety of rail rapid transit systems which receive Federal financial assistance. Urban Mass Transportation Administration is now researching emergency preparedeness and fire safety in rail rapid transit. (46 FR 25575, 5-7-81)

Note.—Single copies of Board reports are available without charge as long as limited supplies last. (Multiple copies of Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.) Copies of recommendation letters, responses and related correspondence are also free of charge. Address written requests, identified by recommendation or report number, to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(49 U.S.C. 1903(a)(2), 1906)

Dated: September 4, 1981.

Margaret L. Fisher,

*Federal Register Liaison Officer.*

[FR Doc. 81-26421 Filed 9-9-81; 8:45 am]

BILLING CODE 4910-58-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards, Subcommittee on Fluid Dynamics; Meeting

The ACRS Subcommittee on Fluid Dynamics will hold a meeting on September 24 and 25, 1981 at the Bellview Hotel, 505 Geary Street, San Francisco, CA. The Subcommittee will review plans for addressing resolution of issues associated with Mark III containment pool dynamic loads and the application of resolution of these issues to the Grand Gulf Nuclear Plant.

In accordance with the procedures outlined into the Federal Register on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangement can be made to

allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Thursday and Friday, September 24 and 25, 1981–8:30 a.m. until the conclusion of business each day*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, General Electric, Mississippi Power and Light, consultants to each, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: September 3, 1981.

John C. Hoyle,

*Advisory Committee Management Officer.*

[FR Doc. 81-26451 Filed 9-9-81; 8:45 am]

BILLING CODE 1590-01-M

## Advisory Committee on Reactor Safeguards, Subcommittee on metal Components; Meeting

The ACRS Subcommittee on Metal Components will hold a meeting on September 25, 1981, Room 1046, 1717 H Street, NW., Washington, D.C. The Subcommittee will discuss proposed criteria regarding failure modes/mechanisms for primary system piping and the performance of high strength bolts.

In accordance with the procedures outlined in the Federal Register on October 7, 1981 (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information (SUNSHINE ACT EXEMPTION 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: Friday, September 25, 1981, 8:30 a.m. until the conclusion of buesiness.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Date: September 4, 1981.

John C. Hoyle,

*Advisory Committee Management Officer.*

[FR Doc. 81-26452 Filed 9-9-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

## Baltimore Gas and Electric Co. Extension for Compliance With Certain Requirements of 10 CFR 50.48

By letter dated August 27, 1981, Baltimore Gas and Electric Company (the licensee) requested that the Nuclear Regulatory Commission (the Commission) grant an extension of time until October 15, 1981, for complying with certain of the requirements of § 50.48 of 10 CFR 50 (45 FR 76602, November 19, 1980).

This request is in connection with the licensee's need to postpone the date for operability of Automatic Fire Suppression in the Cable Spreading Rooms and Switchgear Rooms of Calvert Cliffs Units 1 and 2.

Pursuant to 10 CFR 50.48(d), the Commission's Director of Nuclear Reactor Regulation has concluded that good cause has been shown and that such postponement will not adversely affect the health and safety of the public. Accordingly, the request has been granted.

For further details with respect to this action, see (1) the licensee's request dated August 27, 1981, and (2) the Director's letter to the licensee dated September 1, 1981.

Dated at Bethesda, Maryland, this 1st day of September, 1981.

For the Nuclear Regulatory Commission.

Harold R. Denton,

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 81-26453 Filed 9-9-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

## Consumers Power Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-6, issued to the Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment authorizes changes to section 6.0—Administrative Controls, which includes the addition of a Shift Technical Advisor to the shift staffing requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act

of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 16, 1981 and its supplement dated July 1, 1981, (2) Amendment No. 46 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of September, 1981.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

*Chief, Operating Reactors Branch No. 5, Division of Licensing.*

[FR Doc. 81-26454 Filed 9-9-81; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-367 (Construction Permit Extension)]**

## Northern Indiana Public Service Co. (Bailly Generating Station, Nuclear-1), Suspending Proceedings

September 1, 1981.

Upon consideration of Northern Indian Public Service Company's (NIPSCO's) motion of August 26, 1981 to terminate the proceeding, it this 1st day of September 1981.

Ordered

(1) That all further actions in this proceeding be suspended until the Board issues an order terminating the proceeding; and

(2) That NIPSCO have ten (10) days from the service of this Order to file its objection, if any, to the termination's being with prejudice and whatever reasons it may have for such objection.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

*Chairman, Administrative Judge.*

[FR Doc. 81-26455 Filed 9-9-81; 8:45 am]

BILLING CODE 7590-01-M

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 11928; 812-4919]**

## Eaton Vance Tax Free Cash Management Fund; Filing of Application

September 2, 1981.

In the matter of Eaton Vance Tax Free Cash Management Fund, 24 Federal Street, Boston, Massachusetts 02110 (812-4919).

Notice is hereby given that Eaton Vance Tax Free Cash Managment Fund ("Applicant"), registered under the investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on July 15, 1981, and an amendment thereto on August 20, 1981, requesting an order of the Commission pursuant to Section 6 (c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its assets pursuant to the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

According to the appplication, Applicant is a business trust organized under the law of Massachusetts. Applicant's investment objective is to seek liquidity and safety or principal and as high a rate of tax free income as is consistent with those aims. The Applicant will invest in high quality municipal instruments including municipal notes, project notes, municipal bonds and commercial paper and in high quality money market instruments. High quality, as defined in the application, means an investment in a security that has received either of the two highest ratings of any major rating service or, if the instrument is not rated, of comparable quality as determined by the Applicant's board of trustees. Though the Applicant has an investment policy that allows it to invest in puts, Applicant states in the application that it will not make such investments without obtaining prior Commission or staff approval, either by way of an order pursuant to application or by a no-action letter.

As here pertinent, Section 2(a) (41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors of the registered investment company. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, repurchase and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of the rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that protfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant believes that many investors require an investment vehicle that offers a constant net asset value per share and a relatively smooth stream of investment income, and believes that many of its shareholders would seek other alternatives if they could not expect the Applicant's shares could be purchased and redeemed at a constant net asset value per share. Applicant further believes that the amortized cost method of valuing its portfolio securities could facilitate the maintenance of a constant net asset value per share and offer the Applicant's shareholders the

convenience of being able to value their investments by simply knowing the number of shares they own.

Section 6 (c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant represents that its board of trustees has determined in good faith that, absent unusual circumstances, the amortized cost method of valuing portfolio securities represents the fair value of money market instruments.

Applicant states that it believes the requested relief is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Accordingly, Applicant requests that the Commission issue an order pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share for the purposes of effecting sales and redemptions of its shares, using the amortized cost method. Applicant agrees that the following conditions may be imposed in any order granting the exemptions requested:

1. In supervising the operations of Applicant and delegating special responsibilities involving portfolio management to the investment adviser of Applicant, the board of trustees of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, computed for the purpose of distribution and redemption, at $10.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $10.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of trustees in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market intruments published by reputable sources.

(b) In the event such deviation from Applicant's $10.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated.

(c) If the board of trustees belives the extent of any deviation from Applicant's $10.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instrucments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; redemption of shares in kind; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. If the disposition of a portfolio instrument should result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

(4) Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service, or in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than September 29, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 81-26416 Filed 9-9-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22162; 70-6635]

## Louisiana Power & Light Co., Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding

September 3, 1981.

In the matter of Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174 (70-6635).

Louisiana Power & Light Company ("Louisiana"), an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

Louisiana proposes to issue and sell up to $175,000,000 principal amount of its first mortgage bonds in one or more series from time to time not later than April 14, 1982. Louisiana presently proposes to issue and sell not more than $100,000,000 principal amount of said bonds in a single series in October 1981. The terms will be determined by competitive bidding. The bonds will be issued under the company's Mortgage and Deed of Trust, dated as of April 1, 1944, as heretofore supplemented and as to be further supplemented by supplemental indentures to be dated as of the first day of the month in which each series of bonds is issued.

Louisiana also intends to establish one or more new series of its Preferred Stock, Cumulative, $100 par value and/or its Preferred Stock, Cumulative, $25 par value, having an aggregate par value of not more than $50,000,000, and proposes to issue and sell said preferred stock in one or more series from time to time no later than April 14, 1982. The terms of the preferred stock will be determined by competitive bidding. The sale of the preferred stock in one or more series is expected to take place subsequent to the sale of the initial series of the bonds.

The declaration states that Louisiana may request by amendment that the respective sale or sales of bonds and/or preferred stock be excepted from the competitive bidding requirements of Rule 50, should circumstances develop which, in the opinion of the company, make such exception in the best interests of the company and its investors and consumers.

Louisiana will apply the aggregate net proceeds derived from the issue and sale of the bonds and the preferred stock to the payment at maturity of $50,000,000 in principal amount of the company's First Mortgage Bonds, 9½% Series due November 1, 1981, to the payment in part of short-term borrowings, to the financing in part of the company's construction program, and to other corporate purposes.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 1, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 81-26417 Filed 9-9-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11929; 812-4839]

## Thrift Institution Short-Term Liquidity Fund, Inc.; Filing of Application

September 3, 1981.

In the matter of Thrift Institution Short-Term Liquidity Fund, Inc., 55 Water Street, New York, NY 10041 (812-4839)

Notice is hereby given that Thrift Institution Short-Term Liquidity Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, non-diversified, management investment company, filed an application on March 12, 1981, and amendments thereto on May 12, 1981, and August 20, 1981, requesting an order of the Commission, pursuant to Section 6 (c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized as a Maryland corporation on March 4, 1981, and on March 12, 1981, it filed a Notification of Registration and a Registration Statement on Form N-1 pursuant to Section 8(b) of the Act and the Securities Act of 1933. Applicant represents that it is a "money market fund," designed as an investment vehicle for federally-insured savings and loan associations and other financial institutions which are members of, or eligible for membership in, the Federal Home Loan Bank System, that desire to place a portion of their assets in money market investments where the primary considerations are safety, liquidity and, to the extent consistent with the foregoing, a high income return. Applicant states that it intends to invest exclusively in a variety of short-term money market instruments consisting of securities qualifying as short-term liquid assets under Section 523.10(h) of the Regulations of the Federal Home Loan Bank System, which include obligations issued and guaranteed by the United States Government and issued or guaranteed by its agencies or instrumentalities, time deposits (negotiable and non-negotiable) in the Bank for Savings and Loan Association, Chicago, Illinois, and the Savings Banks Trust Company, New York, New York, and certain time deposits, certificates of deposit (negotiable and non-negotiable), savings depostis, and bankers' acceptances of banks insured by the Federal Deposit Insurance Corporation, and certain general obligations issued by a public housing agency of any state, territory or possession of the United States or subdivisions thereof having the full faith and credit of the United States. Applicant further states that it will not invest more than an aggregate of 10 percent of its assets in investments (including certificates of deposit and time deposits) which may be non-negotiable or without readily available market quotations and in repurchase agreements maturing in more than 7 days.

Applicant represents that as a result of the experience of others in managing money market funds, it has become apparent that two qualities are helpful in attracting investors: (1) stability of principal, and (2) a steady flow of predictable and competitive investment income. Applicant asserts that by holding high quality money market instruments having short maturities

combined with a stable net asset value, it is possible to provide these features to investors. Applicant further represents that investors are concerned that the daily income declared reflect income as earned and that the sales and redemption prices not change.

As stated in the application, Applicant has a fundamental investment policy permitting investment only in instruments having a remaining maturity of one year or less. Applicant states that its boad of directors ("Board") has determined that an average portfolio maturity of 120 days combined with a stable price achieves the objective of obviating somewhat the possibility of volatility in the price per share while providing a yield similar to yields available in the general debt market and not otherwise available with a portfolio of a shorter duration. In addition, Applicant states that the Board believes that given the nature of Applicant's policies and operations, there will normally be a relatively negligible discrepancy between market value and amortized cost value of such securities.

Despite the fact that non-negotiable time deposits, (including non-negotiable certificates of deposit) not held to maturity, may yield a lower actual rate of return than reflected in the amortized cost of such instruments due to penalties imposed in the event of premature liquidation of the investment, Applicant represents that its Board believes that the possibility of a change in the price per share as a result of holding such non-negotiable instruments or instruments without readily available market quotations or repurchase agreements maturing in more than 7 days is remote for at least the following three reasons. First, the Board considers it unlikely that Applicant's portfolio will include non-negotiable time deposits or certificates of deposit (e.g., "money market certificates") in denominations of less than $100,000. Second, the need to liquidate any non-negotiable instruments, thereby incurring an interest penalty, appears remote since 90 percent of Applicant's portfolio will be invested in highly liquid instruments. Applicant states that since all of its investments must have maturities of one year or less, with an average portfolio maturity of 120 days or less, the short-term nature of the portfolio futher reduces the probability of a need for premature liquidation of any of these investments.

In addition, Applicant states that if at any time by reason of changes in its portfolio or otherwise, investments in non-negotiable time deposits, including non-negotiable certificates of deposit, constitute more than 10 percent of its portfolio, Applicant shall promptly take such action as may be necessary or appropriate to reduce its holdings of such investments, and will compute its net asset value per share on a mark-to-market basis until its holdings of such investments are so reduced.

In view of the foregoing, Applicant states that the Board believes that the valuation of its portfolio securities on the amortized cost basis will benefit shareholders by enabling Applicant to maintain more effectively a stable price per share while providing its shareholders with the opportunity to receive a flow of investment income less subject to fluctuation than under procedures whereby dividends would be adjusted by all realized and unrealized gains and losses on its portfolio securities.

As here pertinent, Section 2(a)(41) of the act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors.

Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable sucurity shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionlly exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant represents that the Board has determined in good faith that in light of the characteristics of Applicant, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable and reflects the fair value of such securities.

Accordingly, Applicant requests an exemption from the provisions of Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit it to value its portfolio securities using the amortized cost method of valuation. In support of its request, Applicant submits that granting the requested exemption is consistent with the standards expressed in Section 6(c) of the Act and consents to the imposition of the following conditions to any order granting the requesting relief:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Board has adopted resolutions as a particular responsibility within the overall duty of care owned to its shareholders—establishing procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures adopted by the Board are the following:

(a) Review by the Board as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and

the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, the Board will promptly consider what action, if any, should be initiated.

(c) Where the Board believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its Board.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than September 29, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 81-26419 Filed 9-9-81; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions selected by the Board in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 18077; SR-CBOE-81-13]

## Chicago Board Options Exchange, Inc., Order Approving Proposed Rule Change

September 3, 1981.

In the matter of Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604 (SR-CBOE-81-13).

On July 20, 1981, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would enable the CBOE to issue temporary non-leasable, non-transferable permits to trade non-equity options. The proposed rule change also sets forth the privileges and responsibilities of such permitholders.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17959, July 22, 1981) and by publication in the Federal Register (46 FR 38797, July 29, 1981). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.[1]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

[1] The Commission received one comment letter concerning the proposed rule change from Mahlon M. Frankhauser, Kirkland and Ellis, Counsel for the Chicago Board of Trade, dated August 19, 1981. The comment letter contends that the Commission does not have authority to approve GNMA options trading and that, accordingly, rule changes to facilitate such trading should not be adopted. The Commission does not agree with the legal interpretation set forth in the comment letter. *See* footnote 13 of Securities Exchange Act Release No. 17577 (February 26, 1981), 46 FR 15242 (March 4, 1981) (approving the CBOE GNMA options proposal) and Answering Brief of the Securities and Exchange Commission in *Board of Trade of the City of Chicago* v. *SEC and Chicago Board Options Exchange, Incorporated*, No. 81-1660 (7th Cir., filed August 28, 1981).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 81-26415 Filed 9-9-81; 8:45 am]

BILLING CODE 8010-01-M

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[Release No. 18078; SR-Phlx-81-13]

## Philadelphia Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

September 3, 1981.

In the matter of Philadelphia Stock Exchange, Inc., 17th Street and Stock Exchange Place, Philadelphia, PA 19103 (SR-Phlx-81-13).

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on August 10, 1981, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Commission copies of a proposed rule change which eliminates monthly reporting by member firms of certain uncovered short option positions and requires instead that such reports be submitted only upon the Exchange's request.[1]

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Phlx-81-13.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that identical rule changes submitted by the American Stock Exchange,[2] the Chicago Board Options Exchange[3] and the Pacific Stock Exchange[4] previously have been published for comment and approved by the Commission.[5]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 81-26418 Filed 9-9-81; 8:45 am]

BILLING CODE 8010-01-M

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[1] On August 31, 1981 the Phlx submitted an amendment to the filing which stated that the proposed rule change had received final approval of its Board of Governors.

[2] *See* File No. SR-Amex-80-31.

[3] *See* File No. SR-CBOE-80-24.

[4] *See* File No. SR-PSE-80-25.

[5] *See* Securities Exchange Act Release Nos. 17326 (November 21, 1980), 17244 (October 24, 1980), and 17382 (December 16, 1980).

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## DEPARTMENT OF STATE

[Public Notice 773]

### State Department Performance Review Board Members

In accordance with section 4314(c)(1) through (5) of the Civil Service Reform Act of 1978 (Pub. L. 95-454), the Executive Resources Board of the Department of State has appointed the following additional persons to the State Department Performance Review Board Register, and in so doing amends accordingly Department of State Public Notice No. 703 (45 FR 6877-6878, January 30, 1980), effective September 1, 1981.

Paul H. Boecker, Director, Foreign Service Institute;
M. Nancy Ely, Assistant Legal Adviser, Office of the Legal Adviser;
Mary Leyland, Assistant Director for Administration, International Development Cooperation Agency;
Daniel W. McGovern, Deputy Legal Adviser, Office of the Legal Adviser;
Michael G. Kozak, Assistant Legal Adviser, Office of the Legal Adviser;
Michael J. Matheson, Assistant Legal Adviser, Office of the Legal Adviser;
Russell L. Monk, Assistant General Counsel for International Affairs, Department of Treasury.

The following names as announced in Department of State Public Notice No. 703 (45 FR 6877-6878, January 30, 1980) are removed from the Department of State Performance Review Board Register:

Mark B. Feldman, Deputy Legal Adviser, Office of the Legal Adviser;
Ronald D. Palmer, Deputy Assistant Secretary of Personnel, Bureau of Personnel;
Virginia Schafer, Deputy Assistant Secretary for Operations, Bureau of Administration;
Jenonne Walker, Member, Policy Planning Staff.

Dated: August 31, 1981.

Joan M. Clark,

*Director General of the Foreign Service and Director of Personnel.*

[FR Doc. 81-26479 Filed 9-9-81; 8:45 am]

BILLING CODE 4710-15-M

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## TENNESSEE VALLEY AUTHORITY

### Potential Development of Uranium Properties Near Marquez, N. Mex.

**AGENCY:** Tennessee Valley Authority.

**ACTION:** Notice of Intent To Prepare an Environmental Impact Statement and Invitation for Public Comment on the Scope of this Document.

**SUMMARY:** The Tennessee Valley Authority (TVA) intends to prepare an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act of 1969 (NEPA) on the potential development of uranium properties near Marquez, New Mexico (McKinley County). This mining of uranium is one of several alternatives TVA is investigating to meet TVA's fuel needs for its nuclear reactors. The Kerr-McGee Nuclear Corporation, as operator and part owner, would mine uranium from lands totaling 1,467 acres (594 hectares) in which TVA holds the right to a 50 percent interest in the mineral lease. TVA is seeking public comment on the scope of the EIS.

**COMMENTS:** Any written comments should be sent to Dr. Mohamed T. El-Ashry, Assistant Manager of Natural Resources (Environment) Tennessee Valley Authority, 215 Natural Resources Building, Norris, Tennessee 37828, by October 16, 1981.

**PUBLIC MEETING:** A public meeting to solicit comments on the scope of the EIS is scheduled for October 1 at 1 p.m., Mountain Daylight Time, in Marquez, New Mexico.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mohamed T. El-Ashry or call TVA's Citizen Action Office: 1-615-632-4100. An information package on the proposal

has been prepared and is available upon request.

**SUPPLEMENTARY INFORMATION:** TVA operates the Nation's largest power system supplying the power requirements for an area of approximately 80,000 square miles containing over seven million people. In carrying out its responsibilities under the TVA Act, TVA is pursuing a wide range of options to meet the need for future electrical generating capacity in a manner that maintains and enhances a quality environment. To that end, a portion of TVA's capacity consists of nuclear power electric generating units. In order to guarantee the availability of fuel for these units, TVA is investigating a number of alternatives, including future spot market purchasing, long-term contracting, and mining of TVA uranium reserves.

TVA and Kerr-McGee Nuclear Corporation entered into an operating agreement in 1974 with Kerr-McGee acting as the operator under which both parties hold an undivided 50 percent interest in the mineral rights on 1,467 acres (594 hectares). The property is located on Tract 5 of the Cebolleta Grant in the extreme southeast corner of McKinley County; about 2.5 kilometers (1.6 miles) northwest of the town of Marquez. TVA, through Kerr-McGee as the operator, proposes to extract 3.1 million kilograms (6.8 million pounds) of uranium from an area in Cañon de Marquez. The surface rights are held by the New Mexico Department of Game and Fish.

Development of underground mining would begin no earlier than June 1984. Maximum production would be about 725 metric tons per day (800 tons per day) of uranium ore using one shaft. The ore, hauled by truck, would be milled in the region. *In situ* leaching methods may also be employed. Mining would require use of a portion of the surface area (119 acres) for support facilities. Surface areas would be reclaimed when no longer needed.

The first step in the preparation of the EIS will be the determination of the scope of the document. TVA will consider all reasonable alternatives and has tentatively identified the following alternatives to mining for discussion: no action, participation with other uranium producers in alternate projects, delayed action, purchase or borrow equivalent fuel, conservation, and use of other fuels. Mining process options and milling alternatives will also be addressed.

Through preliminary evaluations, TVA has identified the following issues for discussion in the EIS:

1. Changes in land use.
2. Effects on scenic, historic, and cultural resources.
3. Impacts to the quantity and quality of surface and ground waters.
4. Impacts on wildlife.
5. Changes in population and related socioeconomic impacts.
6. Effects on soil.
7. Air quality impacts from dust and other pollutants.
8. Noise effects.
9. Radiological impacts.
10. Occupational health and safety impacts.
11. Cumulative impacts from the proposal in association with other regional activities, including uranium mines and mills.
12. Effects on floodplains and wetland areas.

No other potentially significant impacts have been identified.

A public scoping meeting is scheduled for October 1 at 1 p.m., Mountain Daylight Time, in Marquez, New Mexico. The announcement of the meeting will be made in local news putlications including the *Alburquerque Journal, Alburquerque Tribune, Grants Daily Beacon, Artesia Daily Press, Santa Fe New Mexican,* and the *Gallup Independent.* A notice will also be placed at prominent places in the town of Marquez before the day of the meeting. The purposes of the meeting are to exchange information about the proposal and to solicit comments and suggestions on the scope of the issues to be addressed in the EIS. TVA invites all interested persons to attend and participate. Should a participant desire to provide additional information, that material may be submitted to Dr. El-Ashry by October 16. TVA will employ a Spanish-speaking interpreter to facilitate the exchange of comments.

Written comments or suggestions on the scope of the EIS may be submitted in lieu of or in addition to participation in the scoping meeting. Written comments will be fully considered. Agencies who desire to become a cooperating agency in the preparation of the EIS should contact Dr. El-Ashry.

After the scoping process and the initial environmental evaluations are completed, TVA will prepare a draft EIS for public comment. A notice of its availability will be published in the Federal Register and area newspapers and provided to participants in the scoping process. Those persons not desiring to submit comments during the scoping period, but who would like to receive a copy of the draft EIS when it is issued, should notify TVA. TVA will consider any comments on the draft in preparing the final EIS.

Dated: September 3, 1981.

W. F. Willis,

*General Manager, Tennessee Valley Authority.*

[FR Doc. 81-26456 Filed 9-9-81; 8:45 am]
BILLING CODE 8120-01-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

[Summary Notice No. PE-81-25]

## Petitions for Exemption; Summary of Petitions Received and Dispositions of Peitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previsously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATE:** Comments on petitions received must identify the petition docket number involved and must be received on or before: September 30, 1981.

**ADDRESS:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:** The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 31, 1981.

Edward P. Faberman,
*Assistant Chief Counsel, Regulations and Enforcement Division.*

## Petitions for Exemption

| Docket No. | Petitioner | Regulations affected | Description of relief sought |
|---|---|---|---|
| 22104 | Harris L. Gordon | 14 CFR § 141.33(b) | To permit petitioner to be chief flight instructor for more than one approved flight school. |
| 22042 | SAAB—Fairchild SF-340 Aircraft | 14 CFR § 25.571(1)(2) | Relief from the propeller loss damage requirement with the understanding that they will comply with the Special Condition prescribed by the Swedish Board of Civil Aviation in attachment 2 of their letter: "All practical precautions must be taken in the design of aircraft, taking in account the design features of propeller and its control system, to reduce the hazard which might arise from failure of a propeller hub or blade." |
| 22059 | Pacific Alaska Airlines | 14 CFR § 45.13(c) | To permit the installation of an aircraft identification plate on an aircraft other than that from which removed." |

### Dispositions of Petitions for Exemption

| | | | |
|---|---|---|---|
| 21555 | Airborne Express, Inc | 14 CFR § 121.583(a)(8) | To permit petitioner to transport dependents of its employees on its fleet aircraft on any or all flights. *Denied 8/28/81.* |
| 21516 | Frontier Airlines, Inc. | 14 CFR § 121.619 | To permit petitioner to dispatch flights based on weather data contained in the main body of the forecasts. *Denied 8/28/81.* |
| 21549 | Atlantic International Airlines | 14 CFR § 121.291(a) and (b), appendix D | To permit petitioner to initially introduce B-727-100 airplanes into passenger-carrying operations without first conducting a full-seating capacity emergency evacuation and ditching demonstration. *Granted 8/28/81.* |
| 20452 | Dresser Industries, Air Transport | 14 CFR § 61.58(c) | To extend Exemption No. 3061 which allows petitioner's pilots to complete the entire 24-month pilot-in-command proficiency check in an FAA-approved simulator. *Granted 8/28/81.* |
| 21705 | Texas International Airlines, Inc | 14 CFR §§ 141.33(a)(3), 141.35 (d) and (e), 141.79(a), and 141.81(a). | To use chief flight and ground instructors and line flight and ground instructors for courses of training conducted under Part 141 when these instructors do not hold the required instructor certificates and/or do not have the required ground instruction experience in a certificated pilot school. *Granted 8/28/81.* |
| 21295 | Patrick William Sandner | 14 CFR § 61.83(a) | To allow petitioner to solo an airplane before reaching age 16. *Denied 8/27/81.* |
| 21677 | Rotor-Aids, Inc. | 14 CFR § 135.261(b) | To allow petitioner to operate a helicopter in emergency situations without meeting the rest period requirement. *Denied 8/26/81.* |
| 21097 | John Louis Polando | 14 CFR § 135.243(b)(3) | To permit petitioner to serve as pilot in command under Part 135 without an Airplane Instrument Rating or an Airline Transport Pilot Certificate with an airplane category rating. *Denied 8/26/81.* |
| 22099 | People Express | 14 CFR § 91.307 | To amend Exemption No. 3080 to add two aircraft. The present exemption allows operation in the United States under a service to small communities. Exemption specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows. The new exemption would cover until not later than January 1, 1988: 17 B-737-100. *Granted 8/25/81.* |
| 20588 | Dwight E. Lohrenz | 14 CFR §§ 133.1(b) and 133.45(a) | To permit external-load operations in which persons are carried as part of the external load. The operation would involve carriage of medical technicians and ill or injured persons to a medical facility in a "Helicopter Trauma Unit," which would be suspended from a helicopter. *Denied 8/21/81.* |
| 21579 | United Air Carriers, Inc | 14 CFR § 121.291(a) | To permit petitioner to introduce its B-707-300C series airplanes into passenger-carrying service in a 178-seat configuration using four flight attendants without first conducting a full-seating capacity emergency evacuation demonstration. *Granted 8/20/81.* |

[FR Doc. 81-26271 Filed 9-9-81; 8:45 am]
BILLING CODE 4910-13-M

## Federal Highway Administration

### Environmental Impact Statement: Logan and Tazewell Counties, Ill.

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for the proposed construction of Federal Aid Primary Route 406, which will be a four (4) lane highway facility, between the cities of Lincoln and Morton, in Logan and Tazewell Counties, Illinois. The FHWA and the Illinois Department of Transportation will act as lead agencies for the project. A Draft EIS circulated in October, 1979, was prepared pursuant to litigation. Comments were received at that time, but the DEIS was not finalized as new alternatives have come under investigation.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Frank Johnson, District Engineer, Federal Highway Administration, 320 W. Washington Street, 7th Floor, Springfield, Illinois 62701, Phone (217) 492-4600;

W. E. Burns, District Engineer, Illinois Department of Transportation, 126 East Ash Street, Springfield, Illinois 62706, Phone (217) 782-7301.

**SUPPLEMENTARY INFORMATION:** The proposed action will consist of constructing a four (4) lane highway facility between the cities of Lincoln and Morton in Logan and Tazewell Counties, Illinois, respectively. The southern terminus will be a directional type interchange previously built on FAI 55 northwest of Lincoln, Illinois. The northern terminus will be the existing interchange with FAI 74 northwest of Morton, Illinois. The project study area is approximately 30.9 miles, however, the maximum actual construction length

is 27.4 miles since a 3.5 mile section near Hopedale was completed and opened to traffic in 1972. Improvement of the northern 2.6 mile segment at Morton, will require only the addition of interchanges, as this segment had previously been expanded to four (4) lanes.

This proposed project will replace a functionally deficient stretch of highway, provide additional traffic lanes for capacity and safety, complete a needed highway link between FAI 55 and FAI 74 for route continuity, and improve the economic growth and development potential in the area.

Alternatives under consideration for this project include:

1. Utilize other (than highway) modes of transportation.

2. Do nothing; i.e., the no build or no action alternative.

3. Improve the existing highway facility (Illinois Route 121) as a two-lane facility, partially on a new location.

4. Construct a four-lane divided highway with *full* access control, partially on a new location and partially utilizing Illinois Route 121 as the northbound lanes. Portions of existing Illinois Route 121 would also be utilized as frontage roads. (Two alternative locations for this design are under consideration.)

5. Construct a four-lane divided highway with *partial* access control and with some interchanges, partially on a new location and also utilizing Illinois Route 121 as the northbound pavement. (Two alternative locations for this design are under consideration.)

Possible environmental effects associated with the alternatives include conversion of up to 930 acres of farmland (of which 909 are considered prime), and preliminary plans for modification of Sugar Creek will require a 404 permit. No known wetlands or properties protected by section 4(f) of the DOT Act will be affected. There will be no significant effect on any existing floodplain. No endangered species or critical habitat will be affected. Displacements of up to 19 residences and 2 businesses may result.

The scoping process will be achieved by review and comment on a scoping document that has been prepared by the Federal Highway Administration and the Illinois Department of Transportation. The scoping document will be sent to the Department of Housing and Urban Development, Department of Agriculture, U.S. Environmental Protection Agency, National Park Service, and the U.S. Army Corps of Engineers.

State and local agencies and public officials will also receive the scoping document and will have an opportunity to review and comment. Other interested parties may obtain copies of the scoping document from the persons listed in this notice.

A notice announcing the availability of the scoping document will be published in local newspapers. Any comments pertaining to the scoping document are to be sent to the appropriate Federal Highway Administration official no later than September 18, 1981.

A formal scoping meeting will not be held for the proposed action. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs apply to this program)

Issued on: August 31, 1981.

Frank Johnson,

*District Engineer, Springfield, Illinois 62701.*

[FR Doc. 81-26199 Filed 9-9-81; 8:45 am]

BILLING CODE 4910-22-M

## Maritime Administration

**[Docket No. A-132]**

### Carriage of Bulk Preference Cargo by Subsidized U.S.-Flag Operator; Review of Vessel Participation

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice of Agency Review—Extension of Comment Period. A notice was published in the Federal Register (46 CFR 29300) on June 1, 1981 for the purpose of making the Maritime Administration staff review available for public comment, such comment to be submitted not later than July 31, 1981. By notice of July 30, 1981 (46 FR 38949), the deadline for comment was extended to August 31, 1981. In consideration of a request from an interested party to extend the comment period, the deadline for comment is hereby extended further. Comment from any interested person desiring to offer views concerning the staff report should be submitted in writing, with 15 copies, to the Secretary, Maritime Administration, Room 7300, Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, not later than September 15, 1981.

**FOR FURTHER INFORMATION CONTACT:**

F. R. Larson, 202 (377-5532).

By order of the Maritime Subsidy Board.

Dated: September 3, 1981.

Georgia Pournaras Stamas,

*Assistant Secretary.*

[FR Doc. 81-26331 Filed 9-9-81; 8:45 am]

BILLING CODE 3510-15-M

**[Docket S-701]**

### Cove Tank Ships Inc., et al.; Applications

Notice is hereby given that Cove Tank Ships Inc., Cove Tide Corp., Cove Tankers Inc. and Cove Carriers Inc. have filed applications dated May 8, 1981 under the Merchant Marine Act, 1936, as amended (Act) for section 805 (a) written approval on the SSs *Cove Engineer, Cove Tide, Cove Ranger* and *Cove Spirit,* respectively, in connection with applications for operating-differential subsidy (ODS) for the carriage of bulk commodities in U.S. foreign trade, principally from the United States to the Union of Soviet Socialist Republics. Inasmuch as these companies and/or related persons and firms employ or may employ ships in the domestic intercoastal or coastwise service, such written permission of the Maritime Subsidy Board under section 805(a) of the Act will be required if the applications for ODS are to be approved.

The written permission requested by the applicants, amended by letters of August 13, 1981, is as follows:

For Cove Tank Ships Inc. to own the *Cove Engineer,* Cove Tide Corp. to own the *Cove Tide,* CMC Tankers Inc. to own the *Cove Ranger,* and Cove Carriers Inc. to own the *Cove Spirit,* all for world-wide operations, including domestic operation under Military Sealift Command (MSC) or private charters. Permission is also requested for the right to move the vessels from one domestic trade to another, and/or from a foreign trade to a domestic trade. The applications exclude the carriage of dry bulk cargoes in the trade between U.S. Pacific Coast ports and the State of Hawaii.

Inasmuch as Cove Trading Inc, Cove Ventures Inc., Cove Ships Inc. and Cove Tankers Corporation are affiliates of the applicants and holders of ODS contracts in the grain trade to Russia, the requested written permission would be extended to them. Conversely, the written permission already granted to the affiliates would be extended to the applicants. This permission is as follows:

1. For Cove Trading Inc. to own the *Cove Trader;* Cove Ventures Inc. to own the *Cove Leader;* Cove Ships Inc. to

own the *Cove Sailor;* and Cove Tankers Corporation to own the *Cove Explorer.*

2. For Cove Tankers Associates, an affiliate to own the *Cove Navigator;* and Cove Communicator Associates, an affiliate, to own the *Cove Communicator.*

For the vessels named in (1) and (2), above, to be operated in worldwide trade including domestic operations under MSC or private charter, and for the right to move them from one domestic trade to another, and/or from a foreign trade to a domestic trade.

3. For Seatrain Lines, Inc. to operate vessels in the domestic trade, including the Alaskan oil trade and certain MSC operations, as a result of a pecuniary interest in Seatrain Lines, Inc. through a minority stock interest on the part of an officer and director of Cove Ventures Inc., Cove Trading Inc., Cove Tankers Corporation, Cove Ships Inc. and Cove Tank Ships Inc.

Such written permission is required under section 805(a) of the Act notwithstanding the fact that a voyage in the proposed service on which the vessels engaged in domestic intercoastal or coastwise trade would not be eligible for subsidy.

Interested parties may inspect the foregoing applications in the Office of the Secretary, Maritime Administration, Room 7300, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

Any person, firm, or corporation having any interest in such applications (within the meaning of section 805(a)) and desiring to submit comments concerning the applications must file written comments in triplicate with the Secretary, Maritime Administration, by close of business on 9/25/81 together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) related to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS)).

By Order of the Acting Maritime Administrator.

Dated: September 4, 1981.

Georgia Pournaras Stamas,

*Assistant Secretary.*

[FR Doc. 81-26349 Filed 9-9-81; 8:45 am]

BILLING CODE 3510-15-M

## National Highway Traffic Safety Administration

### A.M. General Corp., Public Proceeding Regarding Defect Investigation; 1979-81 M.A.N. Articulated Buses

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (Pub. L. 92-492, 88 Stat. 1470; October 27, 1974) ("Act"), 15 U.S.C. 1412, the Associate Administrator for Enforcement, National Highway Traffic Safety Administration (NHTSA), has made an initial determination that a safety-related defect exists in the rear stepwell configuration of all M.A.N. Articulated buses imported by A.M. General Corporation during 1978-79.

The NHTSA analysis of information received also indicates that A.M. General knew that the M.A.N. Articulated buses had a safety related defect, but failed to furnish notification to the agency and owners and failed to remedy the defect in accordance with the Act. 15 U.S.C. 151, 153-154. A.M. General's apparent violations of these provisions of the Act may subject it to the imposition of civil penalties. 15 U.S.C. 1398.

A public proceeding will be held at 10:00 a.m. on October 16, 1981, in Room 2230 of the Department of Transportation Headquarters, 400 Seventh Street, SW., Washington, D.C. 20590 at which time A.M. General will be afforded an opportunity to present data, views, and arguments concerning the initial determination and the possible imposition of civil penalties.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Ms. Joann Murianka, Office of Defects Investigation, National Highway Traffic Safety Administration, Room 5321, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: (202) 426-2826) before close of business on October 9, 1981.

The agency's investigative file in this matter is available for public inspection during working hours [7:45 a.m. to 4:15 p.m.] in the Technical Reference Library, Room 5108, 400 Seventh Street, S.W., Washington, D.C.

Issued on September 2, 1981.

Lynn L. Bradford,

*Associate Administrator for Enforcement.*

[FR Doc. 81-26282 Filed 9-9-81; 8:45 am]

BILLING CODE 4910-59-M

### 1979 Toyota Hi-Lux Pickup Trucks; Public Proceeding Regarding Safety Defect Investigation

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (Pub. L. 93-492, Stat. 1470; October 27, 1974), 15 U.S.C. 1412, the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, has made an initial determination that a safety related defect exists in 1979 Toyota Motor Co., Ltd. Hi-Lux pickup trucks in that the trucks may exhibit front-end vibration and/or shimmy under certain driving conditions.

A public proceeding will be held at 10:00 a.m. on October 15, 1981, in Room 2230 of the Department of Transportation Building, 400 Seventh Street, SW, Washington, D.C. 20590, at which time Toyota Motor Co., Ltd. will be afforded an opportunity to present data, views and arguments concerning the initial determination.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Ms. Joyce Tannahill, Office of Defects Investigation, Room 5326, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590 (telephone: (202) 426-2850) before close of business on October 8, 1981.

The agency's investigative file in this matter is available for public inspection during working hours (7:45 a.m. to 4:15 p.m.) in the agency's Technical Reference Library, Room 5108, 400 Seventh Street, SW, Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegations of authority at 49 CFR 1.51 and 501.8)

Issued on September 2, 1981.

Lynn L. Bradford,

*Associate Administrator for Enforcement.*

[FR Doc. 81-26281 Filed 9-9-81; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. EX-FE 81-01; Notice 1]

## Volkswagen of America; Petition for Exemption From Automotive Fuel Economy Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Notice of receipt of petition and request for comments.

**SUMMARY:** This notice announces the receipt of a petition from Volkswagen of America (VWoA), submitted under section 503(b)(3)(A) of the Motor Vehicle Information and Cost Savings Act. VWoA seeks exemption from the requirement under that Act that domestically-manufactured passenger automobiles must comply with fuel economy standards separatedly from imported automobiles. The Act requires the agency to grant this petition unless it determines that such action would result in reduced employment in the U.S. related to motor vehicle manufacturing.

**DATE:** Comments on this petition must be received by the agency by October 2, 1981.

**ADDRESS:** Comments on the petition should refer to the docket and notice numbers in the heading of this notice and be submitted (preferably in 10 copies) to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590

**FOR FURTHER INFORMATION CONTACT:** William Devereaux, Office of Automotive Fuel Economy Standards (NRM-23), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-755-9384).

**SUPPLEMENTARY INFORMATION:** On August 5, 1981, the Department received an exemption petition from VWoA, submitted under section 503(b)(3)(A) of the Motor Vehicle Information and Cost Savings Act ("the Act"). In December 1980, VWoA had submitted a letter indicating its intent to file such a petition. Section 503(b)(3) of the Act was enacted as part of the Automobile Fuel Efficiency Act of 1980. In general, fuel economy ratings for domestically manufactured passenger automobiles may not be averaged together with those for imported automobiles for purposes of determining compliance with average fuel economy standards, under section 503(b)(1) of the Act.[1] However, section 503(b)(3)(C) provides for exemption from the separate compliance requirement for companies which begin U.S. production in the 1975-85 period. The section requires the agency to grant a manufacturer's petition unless the agency determines that granting the petition would result in reduced employment in the United States related to motor vehicle manufacturing. This is the exemption VWoA seeks.

The legislative history of the Act indicates that the separate compliance requirement was originally adopted to discourage domestic manufacturers from meeting increasingly stringent fuel economy standards simply by importing more small ("captive import") automobiles, thereby exporting U.S. jobs, in effect. Thus, prior to the enactment of the Automobile Fuel Efficiency Act, domestic manufactuers could beginning with the 1980 model year raise their overall average fuel economy levels, or "CAFE's", only through domestic production of more fuel efficient vehicles. However, this separate compliance provision had the unintended effect of discouraging foreign manufacturers from producing automobiles in the U.S. For example, a foreign manufacturer might want to produce its most fuel efficient vehicles in the U.S., rather than producing them abroad and exporting them to the U.S. As long as the domestic content of its U.S. produced vehicles remained below 75 percent, that company could continue to average together the fuel economy values of all its vehicles to be sold in the U.S. to comply with fuel economy standards. However, if it exceeded the 75 percent U.S. content level in its U.S. produced fleet (thereby increasing employment in the U.S.), it would become subject to the requirement that its two fleets must comply separately with fuel economy standards. While its combined fleet of foreign and U.S.-produced vehicles might readily meet those standards, its fleet of foreign-produced vehicles imported into the U.S. (with the fuel efficient U.S.-produced vehicles excluded) might not comply. In such a situation, the manufacturer might well decide to continue to rely on more imported components. In the case of a foreign manufacturer that has not yet begun U.S. production, the manufacturer might choose not to begin U.S. production in the first instance.

To reduce this disincentive, Congress enacted the provision under which VWoA applied. Under this provision, the agency must grant or deny a petition within 90 days of its receipt (with possible extensions to as much as the 150th day after receipt). An opportunity for public comment is to be provided (ending not later than 60 days after receipt of the petition, with possible extensions up to the 90th day).

Exemptions from the separate compliance requirement may be granted for five years or longer should the manufacturer request and the agency so provide. VWoA has requested that an exemption be granted for the indefinite future. VWoA states in its petition that it now produces approximately 200,000 vehicles per year at its Westmoreland, Pennsylvania plant and plans to add a second plant during 1982 with a capacity to produce another 185,000 vehicles annually. Currently, the vehicles it produces have a domestic content of approximately 60 percent. VWoA anticipates increasing the domestic content of vehicles produced in its currently operational facility and to reach 75 percent U.S. content at the second facility in a relatively short time.

According to an economist cited by VWoA in its petition, the production of 200,000 automobiles with 100 percent domestic content generates approximately 50,000 jobs, including jobs at supplier companies. If this relationship is approximately correct and if granting the petition permitted a 10 percent increase in domestic content at both plants, then nearly 10,000 new jobs would be generated.

In general, granting this petition, and thereby facilitating the locating of manufacturing plants of a foreign manufacturer in this country or the increase in domestic content of automobiles assembled here, should promote U.S. employment. However, it is conceivable that granting a petition under section 503(b)(3)(A) of the Act could have the opposite effect. For example, employment reductions in the U.S. could result if the granting of the petition conferred some competitive advantage on the foreign manufacturer which permitted that company to capture sales from a U.S. manufacturer, and if the U.S. manufacturer produced vehicles with a higher domestic content. Such an advantage might result if a foreign manufacturer which had been exempted from the separate compliance requirement had greater flexibility in sourcing components (i.e., obtaining components from either foreign or domestic suppliers) than a domestic company, thus being able to increase or decrease domestic content above or below the 75 percent level depending on

[1] Section 503(b)(2)(E) of the Act provides that an automobile is considered "domestically manufactured" if at least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the U.S. or Canada. All other vehicles are treated as imports, including any whose final assembly takes place in the U.S. but which use imported components whose value is more than 25 percent of the automobile's total value.

fluctuating foreign exchange rates or other economic factors.

The agency currently has no basis to conclude that any adverse employment impacts would result from granting the VWoA petition. However, the agency invites any individuals or organizations which have information bearing on the effect that granting the petition might have on auto industry employment in the U.S. to submit that information during the public comment period mentioned at the beginning of this notice. The Act requires that if no information is obtained by the agency demonstrating that a grant of the petition would result in reduced U.S. employment, the agency must, after the close of the public comment period, issue an order granting the exemption.

Comments on this petition should refer to Docket Number EX-FE-81-01 and be submitted to the Docket Section at the address provided at the beginning of this notice. If a commenter wishes to submit information under a claim of confidentiality, five copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and ten copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information would result in significant competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage.

In addition, the commenter, or in the case of a corporation a responsible corporate official authorized to speak for the corporation, must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered by the agency and will (along with the petition itself) be available for examination in the docket at the above address after the date of their receipt. To the extent possible, comments filed after the closing date will also be considered. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The environmental impacts of this action have been analyzed in accordance with the National Environmental Policy Act and those impacts have been determined to be small. The principal impact of granting this petition would be to promote increased U.S. manufacturing operations and employment, a positive economic impact with fairly small adverse environmental impacts. Therefore, this action does not constitute a "major Federal action significantly affecting the environment" requiring an environmental impact statement. To document this, the agency has prepared an environmental assessment discussing the environmental consequences of this action, copies of which are available from the individual listed as the information contact at the beginning of this notice. Since this proceeding will not result in the issuance of a "rule" within the meaning of the Administrative Procedure Act or Executive Order 12291, neither the requirements of the Department's regulatory procedures nor those of the Executive Order apply. Therefore, no regulatory analysis or evaluation was prepared for the proposal. For the same reasons, the requirements of the Regulatory Flexibility Act do not apply. As stated above, the agency anticipates that all economic impacts associated with this action would be beneficial, based on available information. The agency will conduct further analyses of these impacts, considering information submitted during the comment period, in conjunction with the final decision on this petition.

(Sec. 4, Pub. L. 96-425, 94 Stat. 1821 (15 U.S.C. 2003); Sec. 9, Pub. L. 98-670, 80 Stat. 931 (49 U.S.C. 1657); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on September 2, 1981.

Michael M. Finkelstein,

*Associate Administrator for Rulemaking.*

[FR Doc. 81-26220 Filed 9-9-81; 8:45 am]

BILLING CODE 4910-59-M

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

[Number: 112-1]

### Delegation of Authority; Changes in the Office of the Treasury of the United States

August 14, 1981.

By virtue of the authority vested in me as Secretary of the Treasury, including the authority vested in me by Reorganization Plan No. 26 of 1950, it is ordered that:

1. The Treasurer of the United States shall exercise supervision over those officers and organizational entities listed:

Deputy National Director, U.S. Savings Bonds Division

Director, Bureau of the Mint

Director, Bureau of Engraving and Printing

2. The Treasurer will retain the position, title and responsibilities of National Director, U.S. Savings Bonds Division.

3. The position of the Deputy Treasurer of the United States is hereby established. The incumbent will report to the Treasurer and assist the Treasurer in carrying out the duties of the Office.

4. Treasury Department Orders No. 39, March 19, 1941; No. 45, April 15, 1942; No. 48, March 2, 1943; No. 50, June 25, 1943; No. 62, December 26, 1945; No. 142, November 30, 1951; are rescinded as of this date.

Donald T. Regan,

*Secretary.*

[FR Doc. 81-26336 Filed 9-9-81; 8:45 am]

BILLING CODE 4810-25-M

[Number: 150-94]

### Creation of the Houston, Texas Internal Revenue District

August 24, 1981

Under the Authority given to the President to establish Internal Revenue Districts by Section 7621 of the Internal Revenue Code, as amended, and vested in me as Deputy Secretary of the Treasury by Executive Order 10289, approved September 17, 1951, as made applicable to the Internal Revenue Code of 1954 by Executive Order 10574, approved November 5, 1954, and pursuant to the authority vested in me

by Reorganization Plan No. 26 of 1950, and Reorganization Plan No. 1 of 1952 as made applicable to the Internal Revenue Code of 1954 by Section 7804(a) of such Code and Executive Order 10574, the Austin Internal Revenue District is modified as specified below and there is created the Houston Internal Revenue District.

1. *Austin District.* Shall include the Counties of Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Bell, Bexar, Blanco, Bosque, Brazos, Brewster, Brooks, Burleson, Burnet, Caldwell, Calhoun, Cameron, Colorado, Comal, Coryell, Culberson, De Witt, Dimmitt, Duval, Edwards, El Paso, Falls, Fayette, Freestone, Frio, Gillespie, Goliad, Gonzales, Grimes, Guadalupe, Hamilton, Hays, Hidalgo, Hill, Hudspeth, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, Lampasas, La Salle, Lavaca, Lee, Leon, Limestone, Live Oak, Llano, McCulloch, McLennan, McMullen, Madison, Mason, Matagorda, Maverick, Medina, Milam, Nueces, Pecos, Presidio, Real, Reeves, Refugio, Robertson, San Patricio, San Saba, Somervell, Starr, Terrell, Travis, Uvalde, Val Verde, Victoria, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Zapata, and Zavala, within the State of Texas with the headquarters office located in Austin, Texas.

2. *Houston District.* Shall include the Counties of Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Trinity, Tyler and Walker, within the State of Texas with the headquarters office located in Houston, Texas.

3. *Internal Revenue Districts.* Each district established by this Order pursuant to Section 7621 of the Internal Revenue Code of 1954, as amended, shall be known as an internal revenue district and shall be identified by the name of the city or subdivision thereof in which the headquarters office of the District Director of Internal Revenue is located.

4. *District Director of Internal Revenue.* The title of each District office shall bear the title "District Director of Internal Revenue" identified by the name of the city or subdivision thereof, in which the headquarters office is located.

5. *Effect on Prior Treasury Department Order.* The following Treasury Department Order as it pertains to the Austin Internal Revenue Service is superseded in part: 150-10, November 14, 1952.

R. T. McNamar,

*Deputy Secretary of the Treasury.*

[FR Doc. 81-26397 Filed 9-9-81; 8:45 am]

BILLING CODE 4810-25-M

# Sunshine Act Meetings

Federal Register
Vol. 46, No. 175
Thursday, September 10, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## CONTENTS



1

**COMMODITY FUTURES TRADING COMMISSION.**

**TIME AND DATE:** 11 a.m., Friday, September 18, 1981.

**PLACE:** 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance briefing.

**CONTACT PERSON FOR MORE INFORMATION:** Jane Stuckey, 254-6314.

[S-1355-81 Filed 9-8-81; 2:37 pm]

BILLING CODE 6351-01-M

2

**FEDERAL DEPOSIT INSURANCE CORPORATION.**

Agency Meeting

Pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 10:30 a.m. on Friday, September 4, 1981, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider certain matters which it determined on motion of Chairman William M. Isaac, seconded by Director Charles E. Lord (Acting Comptroller of the Currency), concurred in by Director Irvine H. Sprague (Appointive), required its consideration on less than seven days' notice to the public.

The Board met in open session to consider a request of the Division of Bank Supervision for approval of interregion examiner training conferences.

The Board then met in closed session to consider the following matters:

Memorandum and Resolution re: Realignment of Responsibilities in the Office of Personnel Management and the Office of Employee Relations.

Personnel matters.

In considering the matters in closed session, the Board determined, by the same majority vote, that the public interest did not require consideration of the matters in a meeting open to public observation and that the matters could be considered in a closed meeting pursuant to subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The Board further determined, by the same majority vote, that no earlier notice of the meeting was practicable.

Dated: September 4, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

*Executive Secretary.*

[S-1352-81 Filed 9-8-81; 12:30 pm]

BILLING CODE 6714-01-M

3

**FEDERAL DEPOSIT INSURANCE CORPORATION.**

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 11:00 a.m. on Tuesday, September 15, 1981, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Bank of Livermore, a proposed new bank, to be located at 2009 Railroad Avenue, Livermore, California.

Commerce and Energy Bank of Lafayette, a proposed new bank, to be located at 3730 Ambassador Caffery Parkway, Lafayette, Louisiana.

Taunton Savings Bank, Taunton, Massachusetts, an operating noninsured mutual savings bank.

Community Bank of Chapel Hill, a proposed new bank, to be located in the Kroger Plaza Shopping Center at the intersection of East Franklin Street and Elliot Road, Chapel Hill, North Carolina.

Texas Bank, a proposed new bank, to be located at the corner of Highway 360 and Post Paddock Road, Grand Prairie, Texas.

Application for consent to merge and establish branches:

Bank of Mantee, Mantee, Mississippi, for consent to merge, under its charter and title, with People's Bank and Trust, Olive Branch, Mississippi, and to establish the sole office of People's Bank and Trust as a branch of the Resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,888-L—The Mission State Bank & Trust Company, Mission, Kansas

Case No. 44,892-L—First Augusta Bank & Trust Company, Augusta, Georgia

Case No. 44,900-L—The Rochelle Bank and Trust Company, Rochelle, Illinois

Case No. 44,901-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Gibbs, Roper, Loots & Williams, Milwaukee, Wisconsin, in connection with the liquidation of American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Powell, Goldstein, Frazer and Murphy, Atlanta, Georgia, in connection with the liquidation of The Hamilton Bank and Trust Company, Atlanta, Georgia.

Recommendation regarding First Pennsylvania Corporation, Philadelphia, Pennsylvania.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and Resolution re: Proposed amendments to Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks."

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: September 8, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

*Executive Secretary.*

[S-1353-81 Filed 9-8-81; 12:30 pm]

BILLING CODE 6714-01-M

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**FEDERAL DEPOSIT INSURANCE CORPORATION.**

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:30 a.m. on Tuesday, September 15, 1981, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b.(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note. Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc..

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: September 8, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

*Executive Secretary.*

[S-1354-81; Filed 9-8-81; 12:36 pm]

BILLING CODE 6714-01-M

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**FEDERAL ELECTION COMMISSION.**

**DATE AND TIME:** Tuesday, September 15, 1981 at 10 a.m.

**PLACE:** 1325 K Street, N.W., Washington, D.C.,

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

Compliance, Litigation, Audits, Personnel.

* * * * *

**DATE AND TIME:** Wednesday, September 16, 1981 at 10 a.m.

**PLACE:** 1325 K Street, N.W., Washington, D.C.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

Continuation of Tuesday, September 15, 1981 Agenda, if necessary.

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**DATE AND TIME:** Thursday, September 17, 1981 at 10 a.m.

**PLACE:** 1325 K Street, N.W., Washington, D.C. (fifth floor).

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions:
  Draft AO 1981-33: Louis Abbatepeolo, Vice President, Astoria Federal Savings & Loan Assn.
  Draft AO 1981-35: William M. Thomas, Member of Congress
Pending legislation
Appropriations and budget
Proposed procedures for the handling of congressional and inter-governmental communications (continued from 8-27-81)
Classification
Routine administrative matters

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, Public Information Officer; telephone: 202-523-4065.

Marjorie W. Emmons,

*For Secretary of the Commission.*

[S-1356-81 Filed 9-8-81; 3:38 pm]

BILLING CODE 6715-01-M

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6

**FEDERAL HOME LOAN BANK AND DATE:** 2:15 p.m., September 3, 1981; 5: 15 p.m., September 4, 1981.

**PLACE:** 1700 G Street, N.W., sixth floor, Washington, D.C.

**STATUS:** Closed meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Bob S. Moore (202-377-6677) or Ms. Martha Gravlee (202-377-6970).

**MATTERS TO BE CONSIDERED:**

Amendment of Section 556.6
Consideration of Holding Company Application

[S 1350-81 Filed 9-8-81; 11:30 am]

BILLING CODE 6720-01-M

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7

**FEDERAL HOME LOAN BANK AND DATE:** 2 p.m., September 4, 1981.

**PLACE:** 1700 G Street, N.W., sixth floor, Washington, D.C.

**STATUS:** Closed meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Bob S. Moore (202-377-6677) or Ms. Martha Gravlee (202-377-6970).

**MATTERS TO BE CONSIDERED:**

Consideration of merger application.

[S 1351-81 Filed 9-8-81; 11:27 pm]

BILLING CODE 6720-01-M

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8

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.**

September 2, 1981.

**TIME AND DATE:** 10 a.m., Wednesday, September 9, 1981.

**PLACE:** Room 600, 1730 K Street, N.W., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following:

1. Old Ben Coal Company, Docket LAKE 80-399 (Petition for Discretionary Review). Issues include whether a violation of 30 CFR 77.1700 occurred.

2. Johnny Howard v. Martin Marietta Corporation, Docket SE 80-24-DM. (Petition for Discretionary Review). Issues include

whether an illegal discrimination under § 105(c) of the 1977 Act occurred.

3. Assonet Sand and Gravel Co., Docket YORK 80-123-M. Request to reopen case.

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, 202-653-5632.

[S1358-81 Filed 9-8-81; 4:20 pm]

BILLING CODE: 6820-12-M

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9

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.**

September 3, 1981.

**TIME AND DATE:** 10 a.m., Wednesday, September 9, 1981.

**PLACE:** Room 600, 1730 K Street, N.W., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** In addition to previously published matters, the Commission will consider and act upon the following:

4. Paramont Mining Company, Docket VA 81-45; (Petition for Interlocutory Review). Issues include interpretation of Commission Rule 22.

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, 202-653-5632.

[S1359-81 Filed 9-8-81; 4:10 pm]

BILLING CODE: 6820-12-M

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10

**FEDERAL RESERVE SYSTEM.**

(Board of Governors).

**TIME AND DATE:** 3:30 p.m., Tuesday, September 15, 1981.

**PLACE:** 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Proposal by the Federal Reserve Bank of San Francisco to increase the construction budget for its new building.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: September 8, 1981.

James McAfee,

*Assistant Secretary of the Board.*

[S 1361-81 Filed 9-8-81; 4:09 pm]

BILLING CODE: 6210-01-M

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11

**NATIONAL SCIENCE FOUNDATION.**

**DATE AND TIME:**

September 17, 1981:
9:00 a.m. Open Session
10:30 a.m. Closed Session

September 18, 1981:
9:00 a.m. Open Session
10:30 a.m. Closed Session

**PLACE:** National Science Foundation, 1800 G Street, N.W., Washington, D.C.

**STATUS:** Parts of this meeting will be open to the public. The rest of the meeting will closed to the public.

**MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS:**

*Thursday, September 17, 9 a.m.*

1. Minutes—Open Session—228th Meeting
2. Chairman's Items
3. Director's Report
a. Report on Grant and Contract Activity—8/20/09/16/81
b. Organizational and Staff Changes
c. Congressional and Legislative Matters
d. NSF Budget for Fiscal Year 1982
e. Status of Fellowship Programs
f. Status of Implementation of Board Policy Statements on Behavioral and Social Sciences and Science and Engineering Education
g. Other Items
4. Proposed Revisions to NSF Conflict of Interest Regulations
5. Program Review—Atmospheric Sciences

*Friday, September 18, 8:30 a.m. (conclusion of open session)*

5. Grants, Contracts, and Programs
6. Reports on Meetings of Board Committees
7. NSF Advisory Groups—Representation at Future Events
8. Proposed Changes in NSF Patent Policy
9. Discussion of Board's Role in National Science Policy
10. Other Business
11. Next Meeting—National Science Board—October 15-16, 1981

**MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:**

*Thursday, September 17, 10:30 a.m.*

A. Minutes—Closed Session—228th Meeting
B. NSF Budget Requests for Fiscal Year 1983 and Subsequent Years
C. NSB Annual Reports
D. Export of Technical Data
E. Draft Report of Congressional Research Service, Library of Congress, to House Committee on Science and Technology
F. NSB and NSF Staff Nominees
G. Alan T. Waterman Award Committee

*Friday, September 18, 11:30 a.m. (conclusion of closed session)*

H. Grants, Contracts, and Programs

**CONTACT PERSON FOR MORE INFORMATION:** Miss Catherine Flynn, NSB Staff Assistant, (202) 357-9582.

[S 1349-81 Filed 9-8-81; 10:04 am]

BILLING CODE 7555-01-M

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12

**NUCLEAR REGULATORY COMMISSION.**

**DATE:** Friday, September 11, 1981.

**PLACE:** Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

**STATUS:** Open/closed.

**MATTERS TO BE CONSIDERED:**

*Friday, September 11*

9:00 a.m..
Discussion of Indian Point Order (public meeting)
12:30 p.m..
Discussion and Possible Vote on Revised Licensing Procedures (closed/portions may be open)

**AUTOMATIC TELEPHONE ANSWERING SREVICE FOR SCHEDULE UPDATE:** (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Walter Magee (202) 634-1410.

Walter Magee,

*Office of the Secretary.*

[S 1343-81 Filed 9-8-81; 8:54 am]

BILLING CODE 7590-01-M

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13

**NUCLEAR REGULATORY COMMISSION.**

**DATE:** Week of September 14, 1981.

**PLACE:** Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

**STATUS:** Open/closed.

**MATTERS TO BE CONSIDERED:**

*Tuesday, September 15*

2:00 p.m..
Discussion on Pressurized Thermal Shock (public meeting)

*Wednesday, September 16*

10:00 p.m.:
Briefing on Interim Rule on Hydrogen Control (public meeting)
2:00 p.m..
Briefing on Reactor Operator Qualifications (public meeting)

*Thursday, September 17*

3:00 p.m.:
Affirmation/Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. Protection of Unclassified Safeguards Information
b. San Onofre *Sua Sponte* Issue
c. Comanche Peak *Sua Sponte* Issues

*Friday, September 17*

3:30 p.m.:
Discussion and Possible Vote on Low-Power Operating License for Diablo Canyon (open/closed status to be determined)

**AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE:** (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Walter Magee (202) 634-1410.

Walter Magee,

*Office of the Secretary.*

[S-1357-81 Filed 9-8-81; 3:47 pm]

BILLING CODE 7590-01-M

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**14**

**POSTAL SERVICE.** Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9:00 A.M. on Tuesday, September 22, 1981, in Room 112/114, Administration Building, Main Post Office, 3600 Aolele Street, Honolulu, Hawaii 96819. The meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

Agenda

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Adjustment in compensation of postal executive.
   (The Board will consider a recommendation by the Postmaster General for compensation adjustment which requires approval of the Board under the Board's Bylaws.)
4. Report of the Regional Postmaster General.
   (Mr. Coughlin, Regional Postmaster General, will report on postal conditions in the Western Region.)
5. Review of current status of E-COM service.
   (The Board will discuss preparations for the initiation of E-COM service in January, 1982.)
6. Proposed change in the Domestic Mail Classification Schedule to provide for acceptance of tapes for E-COM service.
   (The Board will consider a proposed filing with the Postal Rate Commission to broaden access to the Electronic-Computer Originated Mail system by allowing acceptance of tapes.)
7. Proposed change in the Domestic Mail Classification Schedule to change Express Mail forwarding service and establishment of address correction service for Express Mail.
   (The Board will consider a proposed filing with the Postal Rate Commission to allow Express Mail to be forwarded nonlocally as well as locally and permit address correction service in conjunction with Express Mail.)
8. Adjustment of certain preferential postage rates.
   (The Governors will consider an adjustment under 39 U.S.C. 3627 to the rates for nonprofit and other subclasses of mail in view of the reduction in Congressional appropriations for these subclasses.)
9. Proposed study of costing and other issues concerning Red Tag Mail.
   (In keeping with the Board's discussion at its meeting of June 2, 1981, management will advise the Board of its plans to commission a complete and independent study of Red Tag costs and related issues.)
10. Postal Rate Commission Budget for FY 1982.
    (Under the Postal Reorganization Act, the Postal Rate Commission periodically prepares and submits to the Postal Service a budget of the Commission's expenses. The budget is to be considered approved as submitted if the Governors of the Postal Service do not act to adjust it by unanimous written decision. This matter is included on the agenda to give the Governors an opportunity to act on the Commission's budget.)
11. Tentative Budget Program.
    (Mr. Finch will discuss the Postal Service's tentative budget program for FY 1983 with the Board.)
12. Capital Investment Project—General Mail Facility and Vehicle Maintenance Facility at Birmingham, Alabama.
    (Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will present a proposal to purchase the Main Post Office and Vehicle Maintenance Facility, which are currently leased, at Birmingham, Alabama. At the August 4 meeting of the Board this matter was deferred until the next meeting.)
13. Review of Capital Investment Program.
    (Mr. Biglin will review the general status and accomplishments under the Postal Service's Capital Investment Program.)
14. Format for Quarterly EEO Report to the Board.
    (At its August 4 meeting, the Board agreed that, at its next meeting, it would consider the appropriate format for the Quarterly Report on Equal Employment Opportunity Program, which is required by Resolution No. 81-11.)

Louis A. Cox,

*Secretary.*

[S-1360-81 Filed 9-8-81; 4:04 pm]

BILLING CODE 7710-12-M

Federal Register

Thursday
September 10, 1981

Part II

# Department of Transportation

## Federal Aviation Administration

General Operating and Flight Rules; Reorganization and Realignment

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 21, 43, 45, 47, 61, 63, 65, 91, 93, 99, 121, 123, 125, 127, 133, 135, 137, and 141

[Docket No. 18334; Notice No. 79-2A]

# Revision and Realignment of General Operating and Flight Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to reorganize and realign the general operating and flight rules to make them more understandable and easier to use. The present regulations reflect the many changes that have occurred in aviation since the first set of aviation regulations was promulgated almost 50 years ago. This proposal would reorganize the subparts, organize existing material into several new subparts, and utilize an improved numbering system to make future changes easier. Other improvements would be made by deleting redundancies, obsolete compliance dates, and making other minor changes. This proposal was primarily the result of a petition filed by the Aircraft Owners and Pilots Association on August 9, 1978, which was later withdrawn. Additionally, this proposal is part of the President's regulatory reform program to simplify regulations. This proposal does not contain any substantive regulatory changes.

DATE: Comments must be received on or before December 9, 1981.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 18334, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments must be marked: Docket No. 18334. Comments may be inspected at Room 916 between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Fred Laird, General Aviation and Commercial Division (AFO-800), Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8150 or L. Jack Overman, Airspace and Traffic Rules Division (AAT-200), Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

## Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impacts that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 18334." The postcard will be dated, time stamped, and returned to the commenter.

## Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedures.

## Background

On August 9, 1978, the Aircraft Owners and Pilots Association (AOPA) petitioned the Federal Aviation Administration (FAA) to revise Part 91 of the Federal Aviation Regulations (14 CFR Part 91) to make the regulations simpler and more comprehensible. In response to this petition, on January 11, 1979, the FAA issued an Advanced Notice of Proposed Rulemaking (ANPRM) No. 79-2 (44 FR 4572; January 22, 1979) consisting of a verbatim publication of AOPA's proposal.

The FAA received 106 comments in response to this ANPRM. An overwhelming majority of the commenters support the intent of the proposal to reorganize Part 91. This includes such groups as the National Transportation Safety Board, Department of Navy, six state transportation departments, the General Aviation Manufacturers Association, several individual airlines, the Air Transport Association, the Air Line Pilots Association, Flight Safety International, and 80 individual commenters. However, there were numerous problem areas identified by the commenters relating to proposed changes which were considered substantive.

On November 18, 1980, the FAA formed a Part 91 Working Group to analyze further the AOPA proposals and comments received on the ANPRM. It was determined that certain technical and administrative problems existed and it was not feasible to undertake a substantive revision of Part 91 at that time. Subsequently, AOPA withdrew its petition. However, review of AOPA's proposal to reorganize and renumber Part 91 revealed that many of the changes had merit and could be implemented. The FAA Working Group concluded that the reorganization and renumbering of Part 91 would be the first step to improve the regulation and make it more understandable and easier to use.

## The Need for Reorganization

FAR Part 91 is a regulation that involves aviation safety and prescribes the minimum standards for all classes of operators who operate within the aviation system. For several years many individuals, aviation organizations, and operators have claimed that Part 91 is unorganized and lacks continuity of subject material resulting in a document that is difficult to study and understand. The FAA agrees that a new simplified format is needed. This will provide better subject continuity and a regulatory document that is easier to read and understand.

## Proposed Future Changes

This proposal is the initiation of the FAA's program to simplify Part 91 as part of the President's regulatory reform efforts to remove unnecessary burdens on the public. Therefore, this proposal is only the first step in a regulatory review of Part 91 consistent with the objective of Executive Order 12291. While this notice deals only with reorganization of Part 91, future rulemaking will concentrate on possible substantive

amendments to sections of this part to make them more understandable, reduce costs associated with them, eliminate unnecessary requirements, and otherwise improve on them. With this in mind, the FAA invites specific comments to help in identifying substantive areas to be reviewed and possibly be included in the future proposals concerning Part 91. It is the FAA's intention not to take final action concerning this reorganization until a notice proposing substantive changes has been issued and the comments submitted have been fully evaluated and final action is taken on that notice.

## The Proposal

The FAA is proposing to amend Part 91 of the Federal Aviation Regulations to reorganize, realign, and renumber the rules under this part as follows:

1. By reorganizing and realigning the rules in Part 91 into 10 subparts as follows:

FAR Part 91: General Operating and Flight Rules

Subpart A General
Subpart B Flight Rules
  General
  Visual Flight Rules
  Instrument Flight Rules
Subpart C Equipment, Instrument, and Certificate Requirements
Subpart D Special Flight Operations
Subpart E Maintenance, Preventive Maintenance, and Alterations
Subpart F Large and Turbine-Powered Multiengine Airplanes
Subpart G Additional Equipment and Operating Requirements for Large and Transport Category Aircraft
Subpart H Foreign Aircraft Operations and Operations of U.S.-Registered Civil Aircraft to Areas Outside of the Conterminous United States
Subpart I Operating Noise Limits
Subpart J Waivers

*Explanation:* The heading of Subparts A and B remain the same.

The heading of Subpart C would be changed to "Equipment, Instrument, and Certificate Requirements" to reflect the creation of a new subpart containing relevant material now found in Subparts A and B. This proposal groups material of general applicability under a more specific heading for easier reference by the user.

Subpart D would be changed to "Special Flight Operations." This is a new Subpart which prescribes regulations now found in Subparts A and B affecting operations of a special category not commonly performed. These operations include such items as acrobatic flight and parachuting. This porposal would group them under a descriptive heading for easier user reference.

Proposed Subpart E, "Maintenance, Preventive Mantenance, and Alterations," consists of regulations found in present Subpart C. This subpart would be moved from its present location in Subpart C to provide for the insertion of new Subpart C and D. This change should provide better subject continuity.

Proposed Subpart F, "Large and Turbine-Powered Multiengine Airplanes," would contain the headings and material now found in present Subpart D.

A new Subpart G entitled "Additional Equipment and Operating Requirements for Large and Transport Category Aircraft," would contain regulations now found in Subpart A concerning these subjects. This proposal would group similar items in a new subpart for easier reference.

Proposed Subpart H, "Foreign Aircraft Operations of U.S.-Registered Civil Aircraft to Areas Outside of the Conterminous United States," would contain regulations concerning foreign aircraft operations and U.S. aircraft operating to areas outside of the conterminous United States. These regulations are now found in Subparts A and B.

Proposed Subpart I, "Operating Noise Limits," would be added containing the provisions in Subpart E under that title and adding to regulations concerning noise now found in Subpart A.

A new Subpart J, "Waivers," would be added to identify regulations which are subject to waiver. This provides a comprehensive list of these regulations to assist users in determining which regulations are waiverable.

2. By renumbering and realigning the rules in Part 91 under the 10 proposed subparts with the sections in each subpart assigned odd numbers as follows:

Subpart A.—*General*

| New | Old | |
|---|---|---|
| 91.1 | 91.1(a) | Applicability. |
| 91.3 | 91.3 | Responsibility and authority of the pilot in command. |
| 91.5 | 91.4 | Pilot in command of aircraft requiring more than one required pilot. |
| 91.7 | 91.29 | Civil aircraft airworthiness. |
| 91.9 | 91.31 | Civil aircraft operating limitations and marking requirements. |
| 91.11 | 91.8 | Prohibition against interference with crewmembers. |
| 91.13 | 91.9, 10 | Careless or reckless operation. |
| 91.15 | 91.13 | Dropping objects. |
| 91.17 | 91.11 | Liquor and drugs. |
| 91.19 | 91.12 | Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances. |
| 91.21 | 91.19 | Portable electronic devices. |
| 91.23 | 91.54 | Truth-in-leasing clause requirement in leases and conditional sales contracts. |
| 91.25 | 91.57 | Aviation Safety Reporting Program: Prohibition against use of reports for enforcement purposes. |
| 91.27-91.99 | ——— | Reserved. |

*Explanation:* The proposed subpart consists of regulations contained in present Subpart A except for certain regulations which are moved to other subparts where they are more pertinent and provide better subject continuity. Certain editorial changes include references to new Part 125 where appropriate. Proposed § 91.1 consists of current § 91.1(a). Current § 91.1 (b) and (c) would be changed to § 91.703 and placed under proposed Subpart H since these sections pertain to the operation of civil aircraft of U.S. registry outside the United States. Present §§ 91.9 and 91.10 would be combined under a new § 91.11 since both pertain to careless and reckless operations. Section 91.53 is unnecessary and is deleted.

Present §§ 91.2, 91.5, 91.6, 91.7, 91.14, 91.21, 91.22, 91.23, 91.25, and 91.34 would be relocated under proposed Subpart B, "Flight Rules," since they pertain to flight rules or flight operations. Present §§ 91.24, 91.27, 91.30, 91.32, 91.33, 91.36, 91.51, and 91.52 would be relocated in proposed Subpart C, "Equipment, Instrument, and Certificate Requirements," since these regulations concern those subjects. Present §§ 91.15, 91.17, 91.18, 91.39, 91.40, 91.41, 91.42, and 91.59 concern special categories of operations and are relocated under proposed Subpart D, "Special Flight Operations." Present §§ 91.35, 91.37, 91.45, 91.47, 91.49, 91.50, and 91.58 relate to certain equipment and operating requirements for specified aircraft and operators and are moved to proposed Subpart G which concerns that subject. Present §§ 91.1 (b) and (c), 91.20, 91.28, 91.38, and 91.43 are relocated under proposed Subpart H, "Foreign Aircraft Operations and Operations of U.S-Registered Civil Aircraft to Areas Outside of the Conterminous United States," since these rules are relevant to this subpart. Present §§ 91.55 and 91.56 concern noise and are moved to proposed Subpart I, "Operating Noise Limits."

Subpart B.—*Flight Rules, General*

| New | Old | |
|---|---|---|
| 91.101 | 91.61 | Applicability. |
| 91.103 | 91.5 | Preflight action. |
| 91.105 | 91.7 | Flight crewmembers at stations. |
| 91.107 | 91.14 | Use of safety belts. |
| 91.109 | 91.21 | Flight instruction: Simulated instrument flight and certain flight tests. |

**Subpart B.—*Flight Rules, General*—Continued**

| New | Old | |
|---|---|---|
| 91.111 | 91.65 | Operating near other aircraft. |
| 91.113 | 91.67 | Right-of-way rules: Except water operations. |
| 91.115 | 91.69 | Right-of-way rules: Water operations. |
| 91.117 | 91.70 | Aircraft speed. |
| 91.119 | 91.79 | Minimum safe altitudes: General. |
| 91.121 | 91.81 | Altimeter settings. |
| 91.123 | 91.75 | Compliance with ATC clearances and instructions. |
| 91.125 | 91.77 | ATC light signals. |
| 91.127 | 91.85 | Operating on or in the vicinity of an airport: General rules. |
| 91.129 | 91.89 | Operation at airports without control towers. |
| 91.131 | 91.87 | Operation at airports with operating control towers. |
| 91.133 | 91.90 | Terminal control areas. |
| 91.135 | 91.95 | Restricted and prohibited areas. |
| 91.137 | 91.97 | Positive control areas and route segments. |
| 91.139 | 91.91 | Temporary flight restrictions. |
| 91.141 | 91.100 | Emergency air traffic rules. |
| 91.143 | 91.104 | Flight restrictions in the proximity of the Presidential and other parties. |
| 91.145 | 91.102 | Flight limitation in the proximity of space flight recovery operations. |
| 91.147-91.149 | | Reserved. |
| | Visual Flight Rules | |
| 91.161 | 91.22 | Fuel requirements for flight under VFR. |
| 91.163 | 91.83 | VFR flight plan: Information required. |
| 91.165 | 91.105 | Basic VFR weather minimums. |
| 91.167 | 91.107 | Special VFR weather minimums. |
| 91.169 | 91.103 | VFR cruising altitude or flight level. |
| 91.161-91.166 | | Reserved. |
| | Instrument Flight Rules | |
| 91.167 | 91.23 | Fuel requirements for flight in IFR conditions. |
| 91.169 | 91.83 | IFR flight plan: Information required. |
| 91.171 | 91.25 | VOR equipment check for IFR operations. |
| 91.173 | 91.115 | ATC clearance and flight plan required. |
| 91.175 | 91.116 | Takeoff and landing under IFR. |
| 91.177 | 91.119 | Minimum altitudes for IFR operations. |
| 91.179 | 91.121 | IFR cruising altitude or flight level. |
| 91.181 | 91.123 | Course to be flown. |
| 91.183 | 91.125 | IFR radio communications. |
| 91.185 | 91.127 | IFR operations: Two-way radio communication failure. |
| 91.187 | 91.129 | Operation under IFR in controlled airspace: Malfunction reports. |
| 91.189 | 91.6 | Category II and III operations: General operating rules. |
| 91.191 | 91.34 | Category II manual. |
| 91.193 | 91.2 | Certificate of authorization for certain Category II operations. |
| 91.195-91.199 | | Reserved. |

*Explanation:* The majority of the regulations in this proposed subpart are contained in present Subpart B. This proposed subpart has been reorganized to enable pilots using it to locate more easily those regulations that are applicable to the type of operation that they desire to perform. As already noted, 10 regulations would be relocated in this subpart from present Subpart A since they pertain to flight rules or flight operations.

Additionally, seven regulations currently found in Subpart B would be moved to new subparts. Present § 91.73 would be moved to proposed Subpart C, "Equipment, Instrument, and Certificate Requirements," since it involves aircraft lighting requirements. Present §§ 91.71 and 91.93 would be relocated under proposed Subpart D, "Special Flight Operations," since they concern this special category of operations. Sections 91.84, 91.101, and 91.103 would be relocated under proposed Subpart H, "Foreign Aircraft Operations and Operations of U.S.-Registered Aircraft to Areas Outside of the Conterminous United States," since they pertain to this subject. Section 91.63 would be moved to Subpart J, "Waivers," since this section pertains to the applicability of waivers. Present §§ 91.99 and 91.117 have been deleted and removed as unnecessary.

**Subpart C.—*Equipment, Instrument, and Certificate Requirements***

| New | Old | |
|---|---|---|
| 91.201 | None | Applicability. |
| 91.203 | 91.27 | Civil aircraft: Certifications required. |
| 91.205 | 91.33 | Powered civil aircraft with standard category U.S. airworthiness certificates: Instrument and equipment requirements. |
| 91.207 | 91.52 | Emergency locator transmitters. |
| 91.209 | 91.73 | Aircraft lights. |
| 91.211 | 91.32 | Supplemental oxygen. |
| 91.213 | 91.30 | Inoperable instruments and equipment for multiengine aircraft. |
| 91.215 | 91.24 | ATC transponder and altitude reporting equipment and use. |
| 91.217 | 91.36 | Data correspondence between automatically reported pressure altitude data and the pilot's altitude reference. |
| 91.219 | 91.51 | Altitude alerting system or device: Turbojet-powered civil airplanes. |
| 91.221-91.299 | | Reserved. |

*Explanation:* This would be a new subpart in Part 91. All of the rules in this subpart were moved from present Subpart A with the exception of § 91.73, "Aircraft lights," which is currently in Subpart B. These regulations contain general requirements for equipment, instrument, and certificates and are grouped together for subject commonality. Regulations found in present Subppart C would be relocated to proposed Subpart E under the same heading.

**Subpart D.—*Special Flight Operations***

| New | Old | |
|---|---|---|
| 91.301 | None | Applicability. |
| 91.303 | 91.71 | Acrobatic flight. |
| 91.305 | 91.93 | Flight test areas. |
| 91.307 | 91.15 | Parachutes and parachuting. |
| 91.309 | 91.17 | Towing: Gliders. |
| 91.311 | 91.18 | Towing: Other than under § 91.309. |
| 91.313 | 91.39 | Restricted category civil aircraft: Operating limitations. |
| 91.315 | 91.40 | Limited category civil aircraft: Operating limitations. |
| 91.317 | 91.41 | Provisionally certificated civil aircraft: Operating limitations. |
| 91.319 | 91.42 | Aircraft having experimental certificates: Operating limitations. |
| 91.321 | 91.59 | Carriage of candidates in Federal elections. |
| 91.323-91.339 | | Reserved. |

*Explanation:* This proposed subpart would contain regulations concerning special flight operations. The regulations in this subpart are taken from present Subpart A (§§ 91.15, 91.17, 91.18, 91.39, 91.40, 91.41, 91.42, 91.59) and Subpart B (§§ 91.71 and 91.93). These regulations are moved to this subpart to group regulations together of a unique character. Regulations found in present Subpart D would be relocated to proposed Subpart F

**Subpart E.—*Maintenance, Preventive Maintenance, and Alterations***

| New | Old | |
|---|---|---|
| 91.401 | 91.161 | Applicability. |
| 91.403 | 91.163 | General. |
| 91.405 | 91.165 | Maintenance required. |
| 91.407 | 91.167 | Carrying persons other than crewmembers after repairs or alterations |
| 91.409 | 91.169 | Inspections. |
| 91.411 | 91.171 | Progressive inspection. |
| 91.413 | 91.170 | Altimeter system tests and inspections. |
| 91.415 | 91.177 | ATC transponder tests and inspections. |
| 91.417 | 91.173 | Maintenance records. |
| 91.419 | 91.174 | Transfer of maintenance records. |
| 91.421 | 91.175 | Rebuilt engine maintenance records. |
| 91.423-91.499 | | Reserved. |

*Explanation:* This proposed subpart includes all the rules of present Subpart C (current §§ 91.161 through 91.177). The regulations are arranged into a more logical order by grouping similar sections together. All regulations found in present Subpart E would be moved to proposed Subpart I.

**Subpart F—*Large and Turbine-Powered Multiengine Airplanes***

| New | Old | |
|---|---|---|
| 91.501 | 91.181 | Applicability. |
| 91.503 | 91.183 | Flying equipment and operating information. |
| 91.505 | 91.185 | Familiarity with operating limitations and emergency equipment. |
| 91.507 | 91.187 | Equipment requirements: Over-the-top or night VFR operations. |
| 91.509 | 91.189 | Survival equipment for overwater operations. |
| 91.511 | 91.191 | Radio equipment for overwater operations. |
| 91.513 | 91.193 | Emergency equipment. |
| 91.515 | 91.195 | Flight attitude rules. |
| 91.517 | 91.197 | Smoking and safety belt signs. |
| 91.519 | 91.199 | Passenger briefing. |
| 91.521 | 91.200 | Shoulder harness. |
| 91.523 | 91.201 | Carry-on baggage. |
| 91.525 | 91.203 | Carriage of cargo. |
| 91.527 | 91.205 | Transport category airplane weight limitations. |
| 91.529 | 91.209 | Operating in icing conditions. |

**Subpart F.—*Large and Turbine-Powered Multiengine Airplanes*—Continued**

| New | Old | |
|---|---|---|
| 91.531 | 91.211 | Flight engineer requirements. |
| 91.533 | 91.213 | Second-in-command requirements. |
| 91.535 | 91.215 | Flight attendant requirements. |
| 91.537 | 91.217 | Inspection program. |
| 91.539 | 91.219 | Availability of inspection program. |
| 91.541-91-599 | | Reserved. |

*Explanation:* This proposed subpart would consist of all regulations found in present Subpart D.

**Subpart G.—*Additional Equipment and Operating Requirements for Large and Transport Category Aircraft***

| New | Old | |
|---|---|---|
| 91.601 | None | Applicability. |
| 91.603 | 91.49 | Aural speed warning device. |
| 91.605 | 91.37 | Transport category civil airplace weight limitations. |
| 91.607 | 91.50 | Transport category airplanes—Pilot heat indication systems. |
| 91.609 | 91.47 | Emergency exits for airplanes carrying passengers for hire. |
| 91.611 | 91.35 | Flight recorders and cockpit voice recorders. |
| 91.613 | 91.45 | Authorization for ferry flight with one engine inoperative by air carriers and commercial operators of large aircraft. |
| 91.615 | 91.56 | Materials for compartment interiors. |
| 91.617-91.699 | | Reserved. |

*Explanation:* This proposed subpart would contain certain regulations found in present Subpart A which are grouped here because of their subject commonality.

**Subpart H.—*Foreign Aircraft Operations and Operations of U.S.-Registered Civil Aircraft to Areas Outside of the Conterminous United States***

| New | Old | |
|---|---|---|
| 91.701 | None | Applicability. |
| 91.703 | 91.1 | Operations of civil aircraft of U.S. registry outside of the United States. |
| 91.705 | 91.20 | Operations within the North Atlantic Minimum Navigation Performance Specifications Airspace. |
| 91.707 | 91.38 | Increased maximum certificated weights for certain airplanes operated in Alaska. |
| 91.709 | 91.84 | Flights between Mexico or Canada and the United States. |
| 91.711 | 91.101 | Operations to Cuba. |
| 91.713 | 91.43 | Special rules for foreign civil aircraft. |
| 91.715 | 91.103 | Operation of civil aircraft of Cuban registry. |
| 91.717 | 91.28 | Special flight authorizations for foreign civil aircraft. |
| 91.719-91.799 | | Reserved. |

*Explanation:* This new subpart contains regulations concerning operations of foreign aircraft as well as operations of U.S.-registered aircraft to areas outside of the conterminous United States. All regulations in this subpart are found in present Subpart A (§§ 91.1(b) and (c), 91.20, 91.28, 91.38, and 91.43) and present Subpart B (§§ 91.84, 91.101, and 91.103). These rules are grouped together for easier reference.

**Subpart I.—*Operating Noise Limits***

| New | Old | |
|---|---|---|
| 91.801 | 91.301 | Applicability: Relation to Part 36. |
| 91.803 | 91.302 | Part 125 operators: Designation of applicable regulations. |
| 91.805 | 91.303 | Final compliance: Subsonic airplanes. |
| 91.807 | 91.305 | Phased compliance under Parts 121, 125, and 135: Subsonic airplanes. |
| 91.809 | 91.306 | Replacement airplanes. |
| 91.811 | 91.307 | Service to small communities exemption: Tow-engine, subsonic airplanes. |
| 91.813 | 91.308 | Compliance plans and status: U.S. operators of subsonic airplanes. |
| 91.815 | 91.56 | Agricultural and fire-fighting airplanes: Noise operating limitations. |
| 91.817 | 91.55 | Civil aircraft sonic boom. |
| 91.819 | 91.309 | Civil supersonic airplanes that do not comply with Part 36. |
| 91.821 | 91.311 | Civil supersonic airplanes: Noise limits. |
| 91.823-91.899 | | Reserved. |

*Explanation:* This proposed subpart would contain all regulations found in present Subpart E (§§ 91.301 through 91.311) and two regulations found in present Subpart A (§§ 91.55 and 91.56). These regulations concern noise and are combined in this subpart which concerns that subject.

**Subpart J.—*Waivers***

| New | Old | |
|---|---|---|
| 91.901 | None | Applicability. |
| 91.903 | 91.63 | Policy and procedures. |
| 91.905 | None | List of rules subject to waiver. |

*Explanation:* This new subpart would list all of the regulations subject to waiver in one subpart to provide an easy method of identifying which rules are waiverable.

Appendix A. Category II Operations: Manual, Instruments, Equipment, and Maintenance

Appendix B. Authorizations to Exceed Mach 1 (§ 91.817)

Appendix C. Operations in the North Atlantic (NAT) Minimum Navigation Performance Specifications (MNPS) Airspace

*Explanation:* Appendices A, B, and C remain the same except for editorial changes to reflect the renumbering of Part 91.

3. By deleting §§ 91.53, 91.99, 91.117, and 91.207.

*Explanation:* Sections 91.53, 91.99, 91.117, and 91.207 consist of rules that were deleted and marked reserved and may be deleted as unnecessary.

4. By making additional editorial changes to Title 14, Chapter I, Federal Aviation Regulations (Parts 1–199), as follows:

Rule: Part 1—Definitions and Abbreviations

§ 1.1 "Operate", Reference to 91.10, change to 91.13

Rule: Part 21—Certification Procedures for Products and Parts

§ 21.61(A) Reference to 91.41, change to 91.317

§ 21.83(a) & (b) Reference to 91.41, change to 91.317

§ 21.85(f) Reference to 91.41, change to 91.317

§ 21.221(a)(2) & (e) Reference to 91.41, change to 91.317

§ 21.223(a)(2) & (f) Reference to 91.41, change to 91.317

§ 21.225(a)(2) & (e) Reference to 91.41, change to 91.317

Rule: Part 43—Maintenance, Preventive Maintenance, Rebuilding, and Alteration

§ 43.5(a)(4) Reference to 91.31, change to 91.9

§ 43.9(a)(5) Reference to 91.217, change to 91.537

§ 43.13(d) Reference to 91.217, change to 91.537

§ 43.13(d)(1) Reference to 91.217(b)(1), change to 91.537(b)(1)

§ 43.13(d)(2) Reference to 91.217(b)(2), change to 91.537(b)(2)

§ 43.13(d)(3) Reference to 91.217(b)(3), change to 91.537(b)(3)

§ 43.13(d)(4) Reference to 91.217(b)(4), change to 91.537(b)(4)

§ 43.13(d)(5) Reference to 91.217(b)(5), change to 91.537(b)(5)

Appendix E Reference to 91.170, change to 91.413

Appendix F Reference to 91.177, change to 91.415

Rule: Part 45—Identification and Registration Marking

§ 45.22(a)(3)(ii) Reference to 91.83, change to 91.153 and 91.169

Rule: Part 47—Aircraft Registration

§ 47.9(f)(1)(i) Reference to 91.173(a)(2)(i), change to 91.417(a)(2)(i)

Rule: Part 61—Certification: Pilots and Flight Instructors

§ 61.15(b) Reference to 91.12(a), change to 91.19(a)

§ 61.118(d)(5) Reference to 91.169, change to 91.409

§ 61.153(a) Reference to 91.1 thru 91.9, change to 91.1, 91.3, 91.5, 91.11, 91.13.

Rule: Part 63—Certification: Flight Crewmembers Other than Pilots

§ 63.12(b) Reference to 91.12(a), change to 91.19(a)

Rule: Part 65—Certification: Airman Other than Flight Crewmembers

§ 65.12(b) Reference to 91.12(a), change to 91.19(a)

Rule: Part 93—Special Air Traffic Rules and Airport Traffic Patterns

§ 93.111 Reference to 91.107, change to 91.157

§ 93.113 Reference to 91.107, change to 91.157

Rule: Part 99—Security Control of Air Traffic

§ 99.11(b)(1) Reference to 91.83, change to 91.169
§ 99.11(b)(2) Reference to 91.83(a)(1) through (7), change to 91.153(a)(1) through (7)
§ 99.13(b)(1) Reference to 91.83, change to 91.169
§ 99.13(b)(2) Reference to 91.83(a)(1) through (7), change to 91.153(a)(1) through (7)
§ 99.17(a) Reference to 91.125, change to 91.183
§ 99.25(a)(1) Reference to 91.125, change to 91.183
§ 99.27(a) Reference to 91.75, change to 91.123
§ 99.31 Reference to 91.127, change to 91.185

Rule: Part 121—Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commmercial Operators of Large Aircraft

§ 121.15 Reference to 91.12(a), change to 91.19(a)
§ 121.207 Reference to 91.41, change to 91.317
§ 121.579(b)(1) Reference to 91.105, change to 91.155
§ 121.579(b)(2) Reference to 91.105, change to 91.155
§ 121.649(c) Reference to 91.105, change to 91.155
§ 121.657(a) Reference to 91.79, change to 91.119
§ 121.667(b) Reference to 91.83, change to 91.153 and 91.169

Rule: Part 123—Certification and Operations: Air Travel Clubs Using Large Airplanes

§ 123.20 Reference to 91.12(a), change to 91.19(a)

Rule: Part 125—Certification and Operations: Airplanes Having a Seating Capacity of 20 or More Passengers or a Maximum Payload Capacity of 6,000 Pounds or More

§ 125.23(b) Reference to 91.1(c), change to 91.703(b)
§ 125.39 Reference to 91.12(a), change to 91.19(a)
§ 125.329(c) Reference to 91.105, change to 91.155

Rule: Part 127—Certification and Operations of Scheduled Air Carriers with Helicopters

§ 127.22 Reference to 91.12(a), change to 91.19(a)
§ 127.85 Reference to 91.41, change to 91.317

Rule: Part 133—Rotocraft External-Load Operations

§ 133.14 Reference to 91.12(a), change to 91.19(a)

Rule: Part 135—Air Taxi Operators and Commercial Operators

§ 135.3(b) Reference to 91.1(c), change to 91.703(b)
§ 135.41 Reference to 91.12(a), change to 91.19(a)
§ 135.71 Reference to 91.169, change to 91.409
§ 135.93(c) Reference to 91.105, change to 91.155
§ 135.211(a)(2) Reference to 91.116(f), change to 91.175(f)

Rule: Part 137—Agricultural Aircraft Operations

§ 137.23 Reference to 91.12(a), change to 91.19(a)
§ 137.43(c) Reference to 91.107(e), change to 91.157(e)
§ 137.53(c)(ii) Reference to 91.217, change to 91.537

Rule: Part 141—Pilot Schools

§ 141.18 Reference to 91.12(a), change to 91.19(a),
§ 141.41(a)(1)(iii) Reference to 91.33, change to 91.205
§ 141.41(a)(2)(iii) Reference to 91.33, change to 91.205

*Explanation:* Due to the realignment of Part 91 in this amendment, references to specific rule numbers in other parts of this chapter would be revised to reflect the appropriate rule.

## Regulatory Evaluation

The FAA conducted a regulatory evaluation which is included in the regulatory docket for this action. Three major groups of organizations were contacted in this study to determine what programs or areas might be impacted economically as a result of proposed Part 91: industry, military, and government. FAA found that the overwhelming response of the organizations contacted was that, in a general sense, the aggregate of costs to be borne at the organizational level would be insignificant to minor. Further, FAA found that each element or area of potential economic impact may incur types of costs that have not been defined. Because of the lack of directly relevant operational and cost data, the FAA does not have cost estimates for most of the undefined or defined potential impact areas. Those organizations contacted for the purposes of this study also were not able to define what the dollar amounts of impacted programs might be.

A total of 11 contacts with industry organizations were made by telephone. Types of companies or concerns represented by the organizations contacted were flight school operators and instructors; textbook publishers; helicopter manufacturers and operators; trunk, local service, and commuter airlines; aircraft manufacturers and major contractors; aerospace companies; corporations with business jets; private pilots; and manufacturers of aviation-related products. The vast majority of industry organizations contacted felt that a reorganization and realignment of Part 91 would have an insignificant impact on their constituents and associated programs. It was the opinion of most of these organizations that minor costs would be incurred for revising training programs, examinations, operational and maintenance manuals, etc., which reference specific sections of Part 91. Further, several of these organizations support the intent to revise Part 91 without reservation. The FAA invites comments from industry and other qualified sources on the types of programs that might be impacted as a result of the NPRM, on the level of cost impact of programs, and on other elements of impact.

Contacts were also made with the four military organizations: Air Force, Navy, Army, and Marine Corps. The areas commonly identified as having potential economic impact were in training programs and manuals which cite specific sections of the FAR. The aggregate response of these organizations, however, was that there would be little, if any, cost incurred as a result of proposed Part 91. The FAA invites comment from qualified sources on specific types of military programs that might be impacted economically.

The majority of the total cost burden, although it does not appear significant, is most likely to fall upon the FAA. This would include the material, printing, and distribution costs of revised FAR, agency orders, and agency directives, which are estimated not to exceed $500,000; the costs to revise handbooks and manuals; and software and programming costs.

FAA invites comments on the types of programs that may be impacted and/or the magnitude of costs that would be incurred as a result of this proposal.

## Environmental Impact

The FAA has prepared an environmental assessment which addresses the proposal to realign Part 91 and has found that it is not a major Federal action. It concludes that the impacts would not significantly affect the quality of the human environment.

## Benefits Resulting From Proposed Part 91

Proposed Part 91 is expected to provide several benefits to the general public, including: commonality and a more logical progression of the rules, reduced complexity, simplification through reorganization, renumbering to provide easier inclusion of future changes, and deletion of redundancies and obsolete compliance date. These changes will provide a regulation that is easier to read and understand. Additionally, it will reduce the amount of study time for persons who are responsible for having to know the regulation and are required to comply with its minimum safety standards.

## Cross Reference

To identify where present regulations are proposed to be relocated, the following cross-reference is list provided:

| Old | New |
|---|---|
| 91.1 | 91.1 and 91.703. |
| 91.2 | 91.193. |
| 91.3 | 91.3. |
| 91.4 | 91.5. |
| 91.5 | 91.103. |
| 91.6 | 91.189. |
| 91.7 | 91.105. |
| 91.8 | 91.11. |
| 91.9 | 91.13. |
| 91.10 | 91.13. |
| 91.11 | 91.17. |
| 91.12 | 91.19. |
| 91.13 | 91.15. |
| 91.14 | 91.107. |
| 91.15 | 91.307. |
| 91.17 | 91.309. |
| 91.18 | 91.311. |
| 91.19 | 91.21. |
| 91.20 | 91.705. |
| 91.21 | 91.109. |
| 91.22 | 91.151. |
| 91.23 | 91.167. |
| 91.24 | 91.215. |
| 91.25 | 91.171. |
| 91.27 | 91.203. |
| 91.28 | 91.717. |
| 91.29 | 91.7. |
| 91.30 | 91.213. |
| 91.31 | 91.9. |
| 91.32 | 91.211. |
| 91.33 | 91.205. |
| 91.34 | 91.191. |
| 91.35 | 91.611. |
| 91.36 | 91.217. |
| 91.37 | 91.605. |
| 91.38 | 91.707. |
| 91.39 | 91.313. |
| 91.40 | 91.315. |
| 91.41 | 91.317. |
| 91.42 | 91.319. |
| 91.43 | 91.713. |
| 91.45 | 91.613. |
| 91.47 | 91.609. |
| 91.49 | 91.603. |
| 91.50 | 91.607. |
| 91.51 | 91.219. |
| 91.52 | 91.207. |
| 91.53 | Deleted. |
| 91.54 | 91.23. |
| 91.55 | 91.817. |
| 91.56 | 91.815. |
| 91.57 | 91.25. |
| 91.58 | 91.615. |
| 91.59 | 91.321. |
| 91.61 | 91.101. |
| 91.63 | 91.903. |
| 91.65 | 91.111. |
| 91.67 | 91.113. |
| 91.69 | 91.115. |
| 91.70 | 91.117. |
| 91.71 | 91.303. |
| 91.73 | 91.209. |
| 91.75 | 91.123. |
| 91.77 | 91.125. |
| 91.79 | 91.119. |
| 91.81 | 91.121. |
| 91.83 | 91.153 and 91.169. |
| 91.84 | 91.709. |
| 91.85 | 91.127. |
| 91.87 | 91.131. |
| 91.89 | 91.129. |
| 91.90 | 91.133. |
| 91.91 | 91.139. |
| 91.93 | 91.305. |
| 91.95 | 91.135. |
| 91.97 | 91.137. |
| 91.99 | Deleted. |
| 91.100 | 91.141. |
| 91.101 | 91.711. |
| 91.102 | 91.145. |
| 91.103 | 91.715. |
| 91.104 | 91.143. |
| 91.105 | 91.155. |
| 91.107 | 91.157. |
| 91.109 | 91.159. |
| 91.115 | 91.173. |
| 91.116 | 91.175. |
| 91.117 | Deleted. |
| 91.119 | 91.177. |
| 91.121 | 91.179. |
| 91.123 | 91.181. |
| 91.125 | 91.183. |
| 91.127 | 91.185. |
| 91.129 | 91.187. |
| 91.161 | 91.401. |
| 91.163 | 91.403. |
| 91.165 | 91.405. |
| 91.167 | 91.407. |
| 91.169 | 91.409. |
| 91.170 | 91.413. |
| 91.171 | 91.411. |
| 91.173 | 91.417. |
| 91.174 | 91.419. |
| 91.175 | 91.421. |
| 91.177 | 91.415. |
| 91.181 | 91.501. |
| 91.183 | 91.503. |
| 91.185 | 91.505. |
| 91.187 | 91.507. |
| 91.189 | 91.509. |
| 91.191 | 91.511. |
| 91.193 | 91.513. |
| 91.195 | 91.515. |
| 91.197 | 91.517. |
| 91.199 | 91.519. |
| 91.200 | 91.521. |
| 91.201 | 91.523. |
| 91.203 | 91.525. |
| 91.205 | 91.527. |
| 91.207 | Deleted. |
| 91.209 | 91.529. |
| 91.211 | 91.531. |
| 91.213 | 91.533. |
| 91.215 | 91.535. |
| 91.217 | 91.537. |
| 91.219 | 91.539. |
| 91.301 | 91.801. |
| 91.302 | 91.803. |
| 91.303 | 91.805. |
| 91.305 | 91.807. |
| 91.306 | 91.809. |
| 91.307 | 91.811. |
| 91.308 | 91.813. |
| 91.309 | 91.819. |
| 91.311 | 91.821. |

## The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Part 91 of the Federal Aviation Regulations (14 CFR Part 91) in its entirety, and amend references to specific rules of Part 91 in other parts (14 CFR Parts 1–199) as follows:

1. By revising Part 91 in its entirely as follows:

# PART 91—GENERAL OPERATING AND FLIGHT RULES

Special Federal Aviation Regulations

SFAR–21
SFAR–27
SFAR–29–3
SFAR–37
SFAR–42

## Subpart A—General

Sec.



## Subpart B—Flight Rules

General



Visual Flight Rules



Instrument Flight Rules

Authority: Sections 307, 313(a), 402, 601, 602, 603, 902, 1110, and 1202 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1372, 1421, 1422, 1443, 1472, 1510, and 1522); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c),).

## Subpart A—General

### § 91.1 Applicability.

Except as provided in § 91.703, this part prescribes rules governing the operation of aircraft (other than moored ballons, kites, unmanned rockets, and unmanned free ballons) within the United States.

### § 91.3 Responsibility and authority of the pilot in command.

(a) The pilot in command of an aircraft is directly responsible for, and is the final authority as to, the operation of that aircraft.

(b) In an emergency requiring immediate action, the pilot in command may deviate from any rule of this part to the extent required to meet that emergency.

(c) Each pilot in command who deviates from a rule under paragraph (b) of this section shall, upon the request of the Administrator, send a written report of that deviation to the Administrator.

### § 91.5 Pilot in command of aircraft requiring more than one required pilot.

No person may operate an aircraft that is type certificated for more than one required pilot flight crewmember unless the pilot flightcrew consists of a pilot in command who meets the requirements of § 61.58 of this chapter.

**§ 91.7 Civil aircraft airworthiness.**

(a) No person may operate a civil aircraft unless it is in an airworthy condition.

(b) The pilot in command of a civil aircraft is responsible for determining whether that aircraft is in condition for safe flight. He shall discontinue the flight when unairworthy mechanical or structural conditions occur.

**§ 91.9 Civil aircraft operating limitations and marking requirements.**

(a) Except as provided in paragraph (d) of this section, no person may operate a civil aircraft without compliance with the operating limitations for that aircraft prescribed by the certificating authority of the country of registry.

(b) No person may operate a U.S.-registered civil aircraft:

(1) For which an airplane or rotorcraft flight manual is required by § 21.5 unless there is available in the aircraft a current, approved airplane or rotorcraft flight manual or the manual provided for in § 121.141(b); and

(2) For which an airplane or rotorcraft flight manual is not required by § 21.5, unless there is available in the aircraft a current approved airplane or rotorcraft flight manual, approved manual material, markings, and placards, or any combination thereof.

(c) No person may operate a U.S.-registered civil aircraft unless that aircraft is identified in accordance with Part 45 of this chapter.

(d) Any person taking off or landing a helicopter certificated under Part 29 of this chapter at a heliport constructed over water may make such momentary flight as is necessary: for takeoff or landing through the prohibited range of the limiting height-speed envelope established for that helicopter if that flight through the prohibited range takes place over water on which a safe ditching can be accomplished and if the helicopter is amphibious or is equipped with floats or other emergency flotation gear adequate to accomplish a safe emergency ditching on open water.

(e) The airplane or rotorcraft flight manual, or manual material, markings, and placards required by paragraph (b) of this section, must contain each operating limitation prescribed for that aircraft by the Administrator, including the following:

(1) Powerplant (e.g., r.p.m., manifold pressure, gas temperature, etc.).

(2) Airspeeds (e.g., normal operating speed, flaps extended speed, etc.).

(3) Aircraft weight, center of gravity, and weight distribution, including the composition of the useful load in those combinations and ranges intended to ensure that the weight and center of gravity position will remain within approved limits (e.g., combinations and ranges of crew, oil, fuel, and baggage).

(4) Minimum flightcrew.

(5) Kinds of operations.

(6) Maximum operating altitude.

(7) Maneuvering flight load factors.

(8) Rotor speed (for rotorcraft).

(9) Limiting height-speed envelope (for rotorcraft).

**§ 91.11 Prohibition against interference with crewmembers.**

No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.

**§ 91.13 Careless or reckless operation.**

(a) *Aircraft operations for the purpose of air navigation.* No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

(b) *Aircraft operations other than for the purpose of air navigation.* No person may operate an aircraft other than for the purpose of air navigation, on any part of the surface of an airport used by aircraft for air commerce (including areas used by those aircraft for receiving or discharging persons or cargo), in a careless or reckless manner so as to endanger the life or property of another.

**§ 91.15 Dropping objects.**

No pilot in command of a civil aircraft may allow any object to be dropped from that aircraft in flight that creates a hazard to persons or property. However, this section does not prohibit the dropping of any object if reasonable precautions are taken to avoid injury or damage to persons or property.

**§ 91.17 Liquor and drugs.**

(a) No person may act as a crewmember of a civil aircraft:

(1) Within 8 hours after the consumption of any alcoholic beverage;

(2) While under the influence of alcohol; or

(3) While using any drug that affects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft.

**§ 91.19 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.**

(a) Except as provided in paragraph (b) of this section, no person may operate a civil aircraft within the United States with knowledge that narcotic drugs, marihuana, and depressant or stimulant drugs or substances as defined in Federal or State statutes are carried in the aircraft.

(b) Paragraph (a) of this section does not apply to any carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances authorized by or under any Federal or State statute or by any Federal or State agency.

**§ 91.21 Portable electronic devices.**

(a) Except as provided in paragraph (b) of this section, no person may operate, nor may any operator or pilot in command of an aircraft allow the operation of, any portable electronic device on any of the following U.S.-registered civil aircraft:

(1) Aircraft operated by an air carrier or commercial operator; or

(2) Any other aircraft while it is operated under IFR.

(b) Paragraph (a) of this section does not apply to—

(1) Portable voice recorders;

(2) Hearing aids;

(3) Heart pacemakers;

(4) Electric shavers; or

(5) Any other portable electronic device that the operator of the aircraft has determined will not cause interference with the navigation or communication system of the aircraft on which it is to be used.

(c) In the case of an aircraft operated by an air carrier or commercial operator, the determination required by paragraph (b)(5) of this section shall be made by the air carrier or commercial operator of the aircraft on which the particular device is to be used. In the case of other aircraft, the determination may be made by the pilot in command or other operator of the aircraft.

**§ 91.23 Truth-in-leasing clause requirement in leases and conditional sales contracts.**

(a) Except as provided in paragraph (b) of this section, the parties to a lease or contract of conditional sale involving a U.S.-registered large civil aircraft and entered into after January 2, 1973, shall execute a written lease or contract and include therein a written truth-in-leasing clause as a concluding paragraph in large print, immediately preceding the space for the signature of the parties, which contains the following with respect to each such aircraft:

(1) Identification of the Federal Aviation Regulations under which the aircraft has been maintained and inspected during the 12 months

preceding the execution of the lease or contract of conditional sale, and certification by the parties thereto regarding the aircraft's status of compliance with applicable maintenance and inspection requirements in this part of the operation to be conducted under the lease or contract of conditional sale.

(2) The name and address (printed or typed) and the signature of the person responsible for operational control of the aircraft under the lease or contract of conditional sale, and certification that each person understands that person's responsibilities for compliance with applicable Federal Aviation Regulations.

(3) A statement that an explanation of factors bearing on operational control and pertinent Federal Aviation Regulations can be obtained from the nearest FAA Flight Standards District Office, General Aviation District Office, or Air Carrier District Office.

(b) The requirements of paragraph (a) of this section do not apply—

(1) To a lease or contract of conditional sale when—

(i) The party to whom the aircraft is furnished is a foreign air carrier or certificate holder under Part 121, 123, 125, 127, 135, or 141 of this chapter; or

(ii) The party furnishing the aircraft is a foreign air carrier, certificate holder under Part 121, 123, 125, 127, or 141 of this chapter, or a certificate holder under Part 135 of this chapter having appropriate authority to engage in air taxi operations with large aircraft;

(2) To a contract of conditional sale, when the aircraft involved has not been registered anywhere prior to the execution of the contract, except as a new aircraft under a dealer's aircraft registration certificate issued in accordance with § 47.61 of this chapter.

(c) No person may operate a large civil aircraft of U.S. registry that is subject to a lease or contract of conditional sale to which paragraph (a) of this section applies, unless—

(1) The lessee or conditional buyer, or the registered owner if the lessee is not a citizen of the United States, has mailed a copy of the lease or contract that complies with the requirements of paragraph (a) of this section, within 24 hours of its execution, to the Flight Standards Technical Division, P.O. Box 25724, Oklahoma City, Oklahoma 73125;

(2) A copy of the lease or contract that complies with the requirements of paragraph (a) of this section is carried in the aircraft. The copy of the lease or contract shall be made available for review upon request by the Administrator; and

(3) The lessee or conditional buyer, or the registered owner if the lessee is not a citizen of the United States, has notified by telephone or in person, the FAA Flight Standards District Office, General Aviation District Office, Air Carrier District Office, or International Field Office nearest the airport where the flight will originate. Unless otherwise authorized by that office, the notification shall be given at least 48 hours prior to takeoff in the case of the first flight of that aircraft under that lease or contract and inform the FAA of—

(i) The location of the airport of departure;

(ii) The departure time; and

(iii) The registration number of the aircraft involved.

(d) The copy of the lease or contract furnished to the FAA under paragraph (c) of this section is commercial or financial information obtained from a person. It is, therefore, privileged and confidential and will not be made available by the FAA for public inspection or copying under 5 U.S.C. 552(b)(4) unless recorded with the FAA under Part 49 of this chapter.

(e) For the purpose of this section, a lease means any agreement by a person to furnish an aircraft to another person for compensation or hire, whether with or without flight crewmembers, other than an agreement for the sale of an aircraft and a contract of conditional sale under section 101 of the Federal Aviation Act of 1958. The person furnishing the aircraft is referred to as the lessor, and the person to whom it is furnished the lessee.

**§ 91.25 Aviation safety reporting program: Prohibition against use of reports for enforcement purposes.**

The Administrator of the FAA will not use reports submitted to the National Aeronautics and Space Administration under the Aviation Safety Reporting Program (or information derived therefrom) in any enforcement action, except information concerning criminal offenses or accidents which are wholly excluded from the program.

**§ 91.27-91.99 Reserved.**

## Subpart B—Flight Rules

### General

**§ 91.101 Applicability.**

This subpart prescribes flight rules governing the operation of aircraft within the United States.

**§ 91.103 Preflight action.**

Each pilot in command shall, before beginning a flight, familiarize himself with all available information concerning that flight. This information must include—

(a) For a flight under IFR or a flight not in the vicinity of an airport, weather reports and forecasts, fuel requirements, alternatives available if the planned flight cannot be completed, and any known traffic delays of which he has been advised by ATC;

(b) For any flight, runway lengths at airports of intended use, and the following takeoff and landing distance information:

(1) For civil aircraft for which an approved airplane or rotorcraft flight manual containing takeoff and landing distance data is required, the takeoff and landing distance data contained therein; and

(2) For civil aircraft other than those specified in subparagraph (1) of this paragraph, other reliable information appropriate to the aircraft, relating to aircraft performance under expected values of airport elevation and runway slope, aircraft gross weight, and wind and temperature.

**§ 91.105 Flight crewmembers at stations.**

(a) During takeoff and landing, and while en route, each required flight crewmember shall—

(1) Be at his station unless his absence is necessary in the performance of his duties in connection with the operation of the aircraft or in connection with his physiological needs; and

(2) Keep his seat belt fastened while at his station.

(b) Each required flight crewmember of a U.S.-registered civil aircraft shall, during takeoff and landing, keep the shoulder harness fastened while at his station. This paragraph does not apply if—

(1) The seat at the crewmember's station is not equipped with a shoulder harness; or

(2) The crewmember would be unable to perform his required duties with the shoulder harness fastened.

**§ 91.107 Use of safety belts.**

(a) No pilot may take off a U.S.-registered civil aircraft (except a free balloon that incorporates a basket or gondola and an airship) unless the pilot in command of that aircraft ensures that each person on board is briefed on how to fasten and unfasten that person's safety belt.

(b) No pilot may take off or land a U.S.-registered civil aircraft (except a free balloon that incorporates a basket or gondola and an airship) unless the pilot in command of that aircraft ensures that each person on board has been notified to fasten his safety belt.

(c) During the takeoff and landing of a U.S.-registered civil aircraft (except a free balloon that incorporates a basket or gondola and an airship) each person on board that aircraft must occupy a seat or berth with a safety belt properly secured about him. However, a person who has not reached his second birthday may be held by an adult who is occupying a seat or berth and a person on board for the purpose of engaging in sport parachuting may use the floor of the aircraft as a seat.

(d) This section does not apply to operations conducted under Part 121, 123, 125, 127, or 135 of this chapter. Paragraph (c) of this section does not apply to persons subject to § 91.105.

**§ 91.109 Flight instruction: Simulated instrument flight and certain flight tests.**

(a) No person may operate a civil aircraft (except a manned free balloon) that is being used for flight instruction unless that aircraft has fully functioning dual controls. However, instrument flight instruction may be given in a single-engine airplane equipped with a single, functioning throwover control wheel in place of fixed, dual controls of the elevator and ailerons when—

(1) The instructor has determined that the flight can be conducted safely; and

(2) The person manipulating the controls has at least a private pilot certificate with appropriate category and class ratings.

(b) No person may operate a civil aircraft in simulated instrument flight unless—

(1) An appropriately rated pilot occupies the other control seat as safety pilot;

(2) The safety pilot has adequate vision forward and to each side of the aircraft, or a competent observer in the aircraft adequately supplements the vision of the safety pilot; and

(3) Except in the case of lighter-than-air aircraft, that aircraft is equipped with fully functioning dual controls. However, simulated instrumented flight may be conducted in a single-engine airplane, equipped with a single, functioning, throwover control wheel, in place of fixed, dual controls of the elevator and ailerons, when—

(i) The safety pilot has determined that the flight can be conducted safely; and

(ii) The person manipulating the control has at least a private pilot certificate with appropriate category and class ratings.

(c) No person may operate a civil aircraft that is being used for a flight test for an airline transport pilot certificate or a class or type rating on that certificate or for a Part 121 proficiency flight test unless the pilot seated at the controls, other than the pilot being checked, is fully qualified to act as pilot in command of the aircraft.

**§ 91.111 Operating near other aircraft.**

(a) No person may operate an aircraft so close to another aircraft as to create a collision hazard.

(b) No person may operate an aircraft in formation flight except by arrangement with the pilot in command of each aircraft in the formation.

(c) No person may operate an aircraft, carrying passengers for hire, in formation flight.

(d) Unless otherwise authorized by ATC, no person operating an aircraft may operate his aircraft in accordance with any clearance or instruction that has been issued to the pilot of another aircraft for radar air traffic control purposes.

**§ 91.113 Right-of-way rules: Except water operations.**

(a) *General.* When weather conditions permit, regardless of whether an operation is conducted under instrument flight rules or visual flight rules, vigilance shall be maintained by each person operating an aircraft so as to see and avoid other aircraft in compliance with this section. When a rule of this section gives another aircraft the right of way, the pilot shall give way to that aircraft and may not pass over, under, or ahead of it, unless well clear.

(b) *In distress.* An aircraft in distress has the right of way over all other air traffic.

(c) *Converging.* When aircraft of the same category are converging at approximately the same altitude (except head-on, or nearly so), the aircraft to the other's right has the right of way. If the aircraft are of different categories—

(1) A balloon has the right of way over any other category of aircraft;

(2) A glider has the right of way over an airship, airplane, or rotorcraft; and

(3) An airship has the right of way over an airplane or rotorcraft.

However, an aircraft towing or refueling other aircraft has the right of way over all other engine-driven aircraft.

(d) *Approaching head-on.* When aircraft are approaching each other head-on, or nearly so, each pilot of each aircraft shall alter course to the right.

(e) *Overtaking.* Each aircraft that is being overtaken has the right of way and each pilot of an overtaking aircraft shall alter course to the right to pass well clear.

(f) *Landing.* Aircraft, while on final approach to land or while landing, have the right of way over other aircraft in flight or operating on the surface. When two or more aircraft are approaching an airport for the purpose of landing, the aircraft at the lower altitude has the right of way, but it shall not take advantage of this rule to cut in front of another which is on final approach to land or to overtake that aircraft.

(g) *Inapplicability.* This section does not apply to the operation of an aircraft on water.

**§ 91.115 Right-of-way rules: Water operations.**

(a) *General.* Each person operating an aircraft on the water shall, insofar as possible, keep clear of all vessels and avoid impeding their navigation, and shall give way to any vessel or other aircraft that is given the right of way by any rule of this section.

(b) *Crossing.* When aircraft, or an aircraft and a vessel, are on crossing courses, the aircraft or vessel to the other's right has the right of way.

(c) *Approaching head-on.* When aircraft, or an aircraft and a vessel, are approaching head-on or nearly so, each shall alter its course to the right to keep well clear.

(d) *Overtaking.* Each aircraft or vessel that is being overtaken has the right of way, and the one overtaking shall alter course to keep well clear.

(e) *Special circumstances.* When aircraft, or an aircraft and a vessel, approach so as to involve risk of collision, each aircraft or vessel shall proceed with careful regard to existing circumstances, including the limitations of the respective craft.

**§ 91.117 Aircraft speed.**

(a) No person may operate an aircraft below 10,000 feet MSL at an indicated airspeed of more than 250 knots (288 m.p.h.).

(b) Unless otherwise authorized or required by ATC, no person may operate an aircraft within an airport traffic area at an indicated airspeed of more than—

(1) In the case of a reciprocating-engine-powered aircraft, 156 knots (180 m.p.h.); or

(2) In the case of a turbine-powered aircraft, 200 knots (230 m.p.h.).

Paragraph (b) does not apply to any operations within a terminal control area. Such operations shall comply with paragraph (a) of this section.

(c) No person may operate an aircraft in the airspace underlying a terminal control area, or in a VFR corridor designated through a terminal control area, at an indicated airspeed of more than 200 knots (230 m.p.h.).

However, if the minimum safe airspeed for any particular operation is

greater than the maximum speed prescribed in this section, the aircraft may be operated at that minimum speed.

**§ 91.119 Minimum safe altitudes: General.**

Except when necessary for takeoff or landing, no person may operate an aircraft below the following altitudes:

(a) *Anywhere.* An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

(b) *Over congested areas.* Over any congested area of a city, town, or settlement, or over any open air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.

(c) *Over other than congested areas.* An altitude of 500 feet above the surface, except over open water or sparsely populated areas. In those cases, the aircraft may not be operated closer than 500 feet to any person, vessel, vehicle, or structure.

(d) *Helicopters.* Helicopters may be operated at less than the minimums prescribed in paragraph (b) or (c) of this section if the operation is conducted without hazard to persons or property on the surface. In addition, each person operating a helicopter shall comply with routes or altitudes specifically prescribed for helicopters by the Administrator.

**§ 91.121 Altimeter settings.**

(a) Each person operating an aircraft shall maintain the cruising altitude or flight level of that aircraft, as the case may be, by reference to an altimeter that is set, when operating—

(1) Below 18,000 feet MSL, to—

(i) The current reported altimeter setting of a station along the route and within 100 nautical miles of the aircraft;

(ii) If there is no station within the area prescribed in subdivision (i) of this subparagraph, the current reported altimeter setting of an appropriate available station; or

(iii) In the case of an aircraft not equipped with a radio, the elevation of the departure airport or an appropriate altimeter setting available before departure; or

(2) At or above 18,000 feet MSL, to 29.92" Hg.

(b) The lowest usable flight level is determined by the atmospheric pressure in the area of operation as shown in the following table:

| Current altimeter setting | Lowest usable flight level |
|---|---|
| 29.92 (or higher) | 180 |
| 29.91 through 29.42 | 185 |
| 29.41 through 28.92 | 190 |
| 28.91 through 28.42 | 195 |
| 28.41 through 27.92 | 200 |
| 27.91 through 27.42 | 205 |
| 27.41 through 26.92 | 210 |

(c) To convert minimum altitude prescribed under §§ 91.119 and 91.165 to the minimum flight level, the pilot shall take the flight level equivalent of the minimum altitude in feet and add the appropriate number of feet specified below, according to the current reported altimeter setting:

| Current altimeter setting | Adjustment factor (feet) |
|---|---|
| 29.92 (or higher) | None |
| 29.91 through 29.42 | 500 |
| 29.41 through 28.92 | 1,000 |
| 28.91 through 28.42 | 1,500 |
| 28.41 through 27.92 | 2,000 |
| 27.91 through 27.42 | 2,500 |
| 27.41 through 26.92 | 3,000 |

**§ 91.123 Compliance with ATC clearances and instructions.**

(a) When an ATC clearance has been obtained, no pilot in command may deviate from that clearance, except in an emergency, unless he obtains an amended clearance. However, except in positive controlled airspace, this paragraph does not prohibit him from canceling an IFR flight plan if he is operating in VFR weather conditions. If a pilot is uncertain of the meaning of an ATC clearance, he immediately shall request clarification from ATC.

(b) Except in an emergency, no person may operate an aircraft contrary to an ATC instruction, in an area in which air traffic control is exercised.

(c) Each pilot in command who, in an emergency, deviates, from an ATC clearance or instruction shall notify ATC of that deviation as soon as possible.

(d) Each pilot in command who (though not deviating from a rule of this subpart) is given priority by ATC in an emergency, shall submit a detailed report of that emergency within 48 hours to the chief of that ATC facility, if requested by ATC.

**§ 91.125 ATC light signals.**

ATC light signals have the meaning shown in the following table:

| Color and type of signal | Meaning with respect to aircraft on the surface | Meaning with respect to aircraft in flight |
|---|---|---|
| Steady green | Cleared for takeoff. | Cleared to land. |
| Flashing green | Cleared to taxi | Return for landing (to be followed by steady green at proper time). |
| Steady red | Stop | Give way to other aircraft and continue circling. |
| Flashing red | Taxi clear of runway in use. | Airport unsafe—do not land. |
| Flashing white | Return to starting point on airport. | Not applicable. |
| Alternating red and green. | Exercise extreme caution. | Exercise extreme caution. |

**§ 91.127 Operating on or in the vicinity of an airport: General rules.**

(a) Unless otherwise required by Part 93 of this chapter, each person operating an aircraft on or in the vicinity of an airport shall comply with the requirements of this section and of §§ 91.129 and 91.131.

(b) Unless otherwise authorized or required by ATC, no person may operate an aircraft within an airport traffic area except for the purpose of landing at, or taking off from, an airport within that area. ATC authorization may be given as individual approval of specific operations or may be contained in written agreements between airport users and the tower concerned.

(c) Except when necessary for training or certification, the pilot in command of a civil turbojet-powered airplane shall use, as a final landing flap setting, the minimum certificated landing flap setting set forth in the approved performance information in the airplane flight manual for the applicable conditions. However, each pilot in command has the final authority and responsibility for the safe operation of his airplane, and he may use a different flap setting approved for that airplane if he determines that it is necessary in the interest of safety.

**§ 91.129 Operation at airports without control towers.**

Each person operating an aircraft to or from an airport without an operating control tower shall—

(a) In the case of an airplane approaching to land, make all turns of that airplane to the left unless the airport displays approved light signals or visual markings indicating that turns should be made to the right, in which case the pilot shall make alll turns to the right;

(b) In the case of a helicopter approaching to land, avoid the flow of fixed-wing aircraft; and

(c) In the case of an aircraft departing the airport, comply with any FAA traffic pattern for that airport.

**§ 91.131 Operation at airports with operating control towers.**

(a) *General.* Unless otherwise authorized or required by ATC, each person operating an aircraft to, from, or on an airport with an operating control tower shall comply with the applicable provisions of this section.

(b) *Communications with control towers operated by the United States.* No person may, within an airport traffic area, operate an aircraft to, from, or on an airport having a control tower operated by the United States unless two-way radio communications are maintained between that aircraft and the control tower. However, if the aircraft radio fails in flight, he may operate that aircraft and land if weather conditions are at or above basic VFR weather minimums, he maintains visual contact with the tower, and he receives a clearance to land. If the aircraft radio fails while in flight under IFR, he must comply with § 91.185.

(c) *Communications with other control towers.* No person may, within an airport traffic area, operate an aircraft to, from, or on an airport having a control tower that is operated by any person other than the United States unless—

(1) If that aircraft's radio equipment so allows, two-way radio communications are maintained between the aircraft and the tower; or

(2) If that aircraft's radio equipment allows only reception from the tower, the pilot has the tower's frequency monitored.

(d) *Minimum altitudes.* When operating to an airport with an operating control tower, each pilot of—

(1) A turbine-powered airplane or a large airplane shall, unless otherwise required by the applicable distance from cloud criteria, enter the airport traffic area at an altitude of at least 1,500 feet above the surface of the airport and maintain at least 1,500 feet within the airport traffic area, including the traffic pattern, until further descent is required for a safe landing;

(2) A turbine-powered airplane or a large airplane approaching to land on a runway being served by an ILS, if the airplane is ILS equipped, shall fly that airplane at an altitude at or above the glide slope between the outer marker (or the point of interception with the glide slope, if compliance with the applicable distance from clouds criteria requires interception closer in) and the middle marker; and

(3) An airplane approaching to land on a runway served by a visual approach slope indicator shall maintain an altitude at or above the glide slope until a lower altitude is necessary for a safe landing.

However, paragraphs (d) (2) and (3) of this section do not prohibit normal bracketing maneuvers above or below the glide slope that are conducted for the purpose of remaining on the glide slope.

(e) *Approches.* When approaching to land at an airport with an operating control tower, each pilot of—

(1) An airplane shall circle the airport to the left; and

(2) A helicopter shall avoid the flow of fixed-wing aircraft.

(f) *Departures.* No person may operate an aircraft taking off from an airport with an operating control tower except in compliance with the following:

(1) Each pilot shall comply with any departure procedures established for that airport by the FAA.

(2) Unless otherwise required by the departure procedure or the applicable distance from clouds criteria, each pilot of a turbine-powered airplane and each pilot of a large airplane shall climb to an altitude of 1,500 feet above the surface as rapidly as practicable.

(g) *Noise abatement runway system.* When landing or taking off from an airport with an operating control tower and for which a formal runway use program has been established by the FAA, each pilot of a turbine-powered airplane and each pilot of a large airplane assigned a noise abatement runway by ATC shall use that runway. However, consistent with the final authority of the pilot in command concerning the safe operation of the aircraft as prescribed in § 91.3(a), ATC may assign a different runway if requested by the pilot in the interest of safety.

(h) *Clearance required.* No person may operate, at an airport with an operating control tower, operate an aircraft on a runway or taxiway, or take off or land an aircraft, unless an appropiate clearance is received from ATC. A clearance to "taxi to" the take-off runway assigned to the aircraft is not a clearance to cross that assigned takeoff runway or to taxi on that runway at any point, but is a clearance to cross other runways that intersect the taxi route to that assigned takeoff runway. A clearance to "taxi to" any point other than an assigned takeoff runway is a clearance to cross all runways that intersect the taxi route to that point.

**§ 91.133 Terminal control areas.**

(a) Group I terminal control areas.

(1) *Operating rules.* No person may operate an aircraft within a Group I terminal control area designated in Part 71 of this chapter except in compliance with the following rules:

(i) No person may operate an aircraft within a Group I terminal control area unless he has received an appropriate authorization from ATC prior to the operation of that aircraft in that area.

(ii) Unless otherwise authorized by ATC, each person operating a large turbine-engine-powered airplane to or from a primary airport shall operate at or above the designated floors while within the lateral limits of the terminal control area.

(2) *Pilot requirements.* The pilot in command of a civil aircraft may not land or take off that aircraft from an airport within a Group II terminal control area unless he holds at least a private pilot certificate.

(3) *Equipment requirements.* Unless otherwise authorized by ATC in the case of in-flight VOR, TACAN, or two-way radio failure or unless otherwise authorized by ATC in the case of a transponder failure occurring at any time, no person may operate an aircraft within a Group I terminal control area unless that aircraft is equipped with—

(i) An operable VOR or TACAN receiver (except in the case of helicopters);

(ii) An operable two-way radio capable of communicating with ATC on appropriate frequencies for that terminal control area; and

(iii) The applicable equipment specified in § 91.215.

(b) Group II terminal control areas.

(1) *Operating rules.* No person may operate an aircraft within a Group II terminal control area designated in Part 71 of this chapter except in compliance with the following rules:

(i) No person may operate an aircraft within a Group II terminal control area unless he has received an appropriate authorization from ATC prior to operation of that aircraft in that area and unless two-way radio communications are maintained within that area between that aircraft and the ATC facility.

(ii) Unless otherwise authorized by ATC, each person operating a large turbine-engine-powered airplane to or from a primary airport shall operate at or above the designated floors while within the lateral limits of the terminal control area.

(2) *Equipment requirements.* Unless otherwise authorized by ATC in the case of in-flight VOR, TACAN, or two-

way radio failure or unless otherwise authorized by ATC in the case of a transponder failure occurring at any time, no person may operate an aircraft within a Group II terminal control area unless that aircraft is equipped with—

(i) An operable VOR or TACAN receiver (except in the case of helicopters);

(ii) An operable two-way radio capable of communicating with ATC on the appropriate frequencies for that terminal control area; and

(iii) The applicable equipment specified in § 91.215, except that automatic pressure altitude reporting equipment is not required for any operation within the terminal control area and a transponder is not required for IFR flights operating to or from an airport outside of, but in close proximity to, the terminal control area when the commonly used transition, approach, or departure procedures to such airport require flight within the terminal control area.

(c) *Group III terminal control areas.* No person may operate an aircraft within a Group III terminal control area designated in Part 71 unless the applicable provisions of § 91.215(b) are complied with, except that such compliance is not required if two-way radio communications are maintained within the TCA between the aircraft and the ATC facility and the pilot provides position, altitude, and proposed flight path prior to entry.

**§ 91.135 Restricted and prohibited areas.**

(a) No person may operate an aircraft within a restricted area (designated in Part 73) contrary to the restrictions imposed, or within a prohibited area, unless he has the permission of the using or controlling agency, as appropriate.

(b) Each person conducting, within a restricted area, an aircraft operation (approved by the using agency) that creates the same hazards as the operations for which the restricted area was designated may deviate from the rules of this subpart that are not compatible with the operation of the aircraft.

**§ 91.137 Positive control areas and route segments.**

(a) Except as provided in paragraph (b) of this section, no person may operate an aircraft within a positive control area or positive control route segment designated in Part 71 of this chapter unless that aircraft is—

(1) Operated under IFR at a specific flight level assigned by ATC;

(2) Equipped with instruments and equipment required for IFR operations;

(3) Flown by a pilot rated for instrument flight; and

(4) Equipped, when in a positive control area, with—

(i) The applicable equipment specified in § 91.215; and

(ii) A radio providing direct pilot/controller communication on the frequency specified by ATC for the area concerned.

(b) ATC may authorize deviations from the requirements of paragraph (a) of this section. In the case of an inoperative transponder, ATC may immediately approve an operation within a positive control area allowing flight to continue, if desired, to the airport of ultimate destination, including any intermediate stops, or to proceed to a place where suitable repairs can be made, or both. A request for authorization to deviate from a requirement of paragraph (a) of this section, other than for operation with an inoperative transponder as outlined above, must be submitted at least 4 days before the proposed operation, in writing, to the ATC center having jurisdiction over the positive control area concerned. ATC may authorize a deviation on a continuing basis or for an individual flight, as appropriate.

**§ 91.139 Temporary flight restrictions.**

(a) Whenever the Administrator determines it to be necessary in order to prevent an unsafe congestion of sightseeing aircraft above an incident or event which may generate a high degree of public interest, or to provide a safe environment for the operation of disaster-relief aircraft, a Notice to Airmen will be issued designating an area within which temporary flight restrictions apply.

(b) When a Notice to Airmen has been issued under this section, no person may operate an aircraft within the designated area unless—

(1) That aircraft is participating in disaster-relief activities and is being operated under the direction of the agency responsible for relief activities;

(2) That aircraft is being operated to or from an airport within the area and is operated so as not to hamper or endanger relief activities;

(3) That operation is specifically authorized under an IFR ATC clearance;

(4) VFR flight around or above the area is impracticable due to weather, terrain, or other considerations, prior notice is given to the air traffic service facility specified in the Notice to Airmen, and en route operation through the area is conducted so as not to hamper or endanger relief activities; or

(5) That aircraft is carrying properly accredited news representatives, or persons on official business concerning the incident or event which generated the issuance of the Notice to Airmen the operation is conducted in accordance with § 91.119 of this chapter the operation is conducted above the altitudes being used by relief aircraft unless otherwise authorized by the agency responsible for relief activities and further in connection with this type of operation, prior to entering the area the operator has filed with the air traffic service facility specified in the Notice to Airmen a flight plan that includes the following information:

(i) Aircraft identification, type, and color.

(ii) Radio communications frequencies to be used.

(iii) Proposed times of entry and exit of the designated area.

(iv) Name of news medium or purpose of flight.

(v) Any other information deemed necessary by ATC.

**§ 91.141 Emergency air traffic rules.**

(a) This section prescribes a process for utilizing Notices to Airmen (NOTAM's) to advise of the issuance and operations under emergency air traffic rules and regulations and designates the official who is authorized to issue NOTAM's on behalf of the Administrator in certain matters under this section.

(b) Whenever the Administrator determines that an emergency condition exists, or will exist, relating to the FAA's ability to operate the air traffic control system and during which normal flight operations under this chapter cannot be conducted consistent with the required levels of safety and efficiency—

(1) The Administrator issues an immediately effective air traffic rule or regulation in response to that emergency condition; and

(2) The Administrator or the Director, Air Traffic Service, may utilize the NOTAM system to provide notification of the issuance of the rule or regulation.

Those NOTAM's communicate information concerning the rules and regulations that govern flight operations, the use of navigation facilities, and designation of that airspace in which the rules and regulations apply.

(c) When a NOTAM has been issued under this section, no person may operate an aircraft, or other device governed by the regulation concerned, within the designated airspace except in accordance with the authorizations, terms, and conditions prescribed in the regulation covered by the NOTAM.

**§ 91.143 Flight restrictions in the proximity of the Presidential and other parties.**

No person may operate an aircraft over or in the vicinity of any area to be visited or traveled by the President, the Vice President, or other public figures contrary to the restrictions established by the Administrator and published in a Notice to Airmen (NOTAM).

**§ 91.145 Flight limitations in the proximity of space flight recovery operations.**

No person may operate any aircraft of U.S. registry, or pilot any aircraft under the authority of an airman certificate issued by the Federal Aviation Administration within areas designated in a NOTAM for space flight recovery operations except when authorized by ATC or operated under the control of the Department of Defense Manager for Manned Space Flight Support Operations.

**§ 91.147-91.149 [Reserved]**

## Visual Flight Rules

**§ 91.151 Fuel requirements for flight under VFR.**

(a) No person may begin a flight in an airplane under VFR unless (considering wind and forecast weather conditions) there is enough fuel to fly to the first point of intended landing and, assuming normal cruising speed—

(1) During the day, to fly after that for at least 30 minutes; or

(2) At night, to fly after that for at least 45 minutes.

(b) No person may begin a flight in a rotorcraft under VFR unless (considering wind and forecast weather conditions) there is enough fuel to fly to the first point of intended landing and, assuming normal cruising speed, to fly after that for at least 20 minutes.

**§ 91.153 VFR flight plan: Information required.**

(a) *Information required.* Unless otherwise authorized by ATC, each person filing a VFR flight plan shall include in it the following information:

(1) The aircraft identification number and, if necessary, its radio call sign.

(2) The type of the aircraft or, in the case of a formation flight, the type of each aircraft and the number of aircraft in the formation.

(3) The full name and address of the pilot in command or, in the case of a formation flight, the formation commander.

(4) The point and proposed time of departure.

(5) The proposed route, cruising altitude (or flight level), and true airspeed at that altitude.

(6) The point of first intended landing and the estimated elapsed time until over that point.

(7) The radio frequencies to be used.

(8) The amount of fuel on board (in hours).

(9) The number of persons in the aircraft, except where that information is otherwise readily available to the FAA.

(10) Any other information the pilot in command or ATC believes is necessary for ATC purposes.

(b) *Cancellation.* When a flight plan has been activated, the pilot in command, upon canceling or completing the flight under the flight plan, shall notify an FAA Flight Service Station or ATC facility.

**§ 91.155 Basic VFR weather minimums.**

(a) Except as provided in § 91.157, no person may operate an aircraft under VFR when the flight visibility is less, or at a distance from clouds that is less, than that prescribed for the corresponding altitude in the following table:

| Altitude | Flight visibility | Distance from clouds |
|---|---|---|
| 1,200 feet or less above the surface (regardless of MSL altitude)— | | |
| Within controlled airspace | 3 statute miles | 500 feet below.<br>1,000 feet above.<br>2,000 feet horizontal. |
| Outside controlled airspace | 1 statute mile except as provided in § 91.155(b). | Clear of clouds. |
| More than 1,200 feet above the surface but less than 10,000 feet MSL— | | |
| Within controlled airspace | 3 statute miles | 500 feet below.<br>1,000 feet above.<br>2,000 feet horizontal. |
| Outside controlled airspace | 1 statute mile | 500 feet below.<br>1,000 feet above.<br>2,000 feet horizontal. |
| More than 1,200 feet above the surface and at or above 10,000 feet MSL—. | 5 statute miles | 1,000 feet below.<br>1,000 feet above.<br>1 mile horizontal. |

(b) When the visibility is less than 1 mile, a helicopter may be operated outside controlled airspace at 1,200 feet or less above the surface if operated at a speed that allows the pilot adequate opportunity to see any air traffic or other obstruction in time to avoid a collision.

(c) Except as provided in § 91.157, no person may operate an aircraft under VFR within a control zone beneath the ceiling when the ceiling is less than 1,000 feet.

(d) Except as provided in § 91.157, no person may take off or land an aircraft or enter the traffic pattern of an airport under VFR within a control zone—

(1) Unless ground visibility at that airport is at least 3 statute miles; or

(2) If ground visibility is not reported at that airport, unless flight visibility during landing or take off or while operating in the traffic pattern is at least 3 statute miles

(e) For the purposes of this section, an aircraft operating at the base altitude of a transition area or control area is considered to be within the airspace directly below that area.

**§ 91.157 Special VFR weather minimums.**

(a) Except as provided in § 93.111, when a person has received an appropriate ATC clearance, the special weather minimums of this section instead of those contained in § 91.155 apply to the operation of an aircraft by that person in a control zone under VFR.

(b) No person may operate an aircraft in a control zone under VFR except clear of clouds.

(c) No person may operate an aircraft (other than a helicopter) in a control zone under VFR unless flight visibility is at least 1 statute mile.

(d) No person may take off or land an aircraft (other than a helicopter) at any airport in a control zone under VFR—

(1) Unless ground visibility at that airport is at least 1 statute mile; or

(2) If ground visibility is not reported at that airport, unless flight visibility during landing or takeoff is at least 1 statute mile.

(e) No person may operate an aircraft (other than a helicopter) in a control zone under the special weather minimums of this section, between sunset and sunrise (or in Alaska, when the sun is more than 6 degrees below the horizon) unless—

(1) That person meets the applicable requirements for instrument flight under Part 61 of this chapter; and

(2) The aircraft is equipped as required in § 91.205(d).

**§ 91.159 VFR cruising altitude or flight level.**

Except while holding in a holding pattern of 2 minutes or less, or while

turning, each person operating an aircraft under VFR in level cruising flight more than 3,000 feet above the surface shall maintain the appropriate altitude or flight level prescribed below, unless otherwise authorized by ATC:

(a) When operating below 18,000 feet MSL and—

(1) On a magnetic course of zero degrees through 179 degrees, any odd thousand foot MSL altitude +500 feet (such as 3,500, 5,500, or 7,500); or

(2) On a magnetic course of 180 degrees through 359 degrees, any even thousand foot MSL altitude +500 feet (such as 4,500, 6,500, or 8,500).

(b) When operating above 18,000 feet MSL to flight level 290 (inclusive) and—

(1) On a magnetic course of zero degrees through 179 degrees, any odd flight level +500 feet (such as 195, 215, or 235); or

(2) On a magnetic course of 180 degrees through 359 degrees, any even flight level +500 feet (such as 185, 205, or 225).

(c) When operating above flight level 290 and—

(1) On a magnetic course of zero degrees through 179 degrees, any flight level, at 4,000-foot intervals, beginning at and including flight level 300 (such as flight level 300, 340, or 380); or

(2) On a magnetic course of 180 degrees through 359 degrees, any flight level, at 4,000-foot intervals, beginning at and including flight level 320 (such as flight level 320, 360, or 400).

**§§ 91.161-165 [Reserved]**

**Instrument Flight Rules**

**§ 91.167 Fuel requirements for flight in IFR conditions.**

(a) Except as provided in paragraph (b) of this section, no person may operate a civil aircraft in IFR conditions unless it carries enough fuel (considering weather reports and forecasts, and weather conditions) to—

(1) Complete the flight to the first airport of intended landing;

(2) Fly from that airport to the alternate airport; and

(3) Fly after that for 45 minutes at normal cruising speed.

(b) Paragraph (a)(2) of this section does not apply if—

(1) Part 97 of this subchapter prescribes a standard instrument approach procedure for the first airport of intended landing; and

(2) For at least 1 hour before and 1 hour after the estimated time of arrival at the airport, the weather reports or forecasts or any combination of them indicate—

(i) The ceiling will be at least 2,000 feet above the airport elevation; and

(ii) Visibility will be at least 3 miles.

**§ 91.169 IFR flight plan: Information required.**

(a) *Information required.* Unless otherwise authorized by ATC, each person filing an IFR flight plan shall include in it the following information:

(1) Information required under § 91.153(a).

(2) An alternate airport, except as provided in paragraph (b) of this section.

(b) *Exceptions to applicability of paragraph (a)(2) of this section.* Paragraph (a)(2) of this section does not apply if Part 97 of this subchapter prescribes a standard instrument approach procedure for the first airport of intended landing and, for at least 1 hour before and 1 hour after the estimated time of arrival, the weather reports or forecasts or any combination of them, indicate—

(1) The ceiling will be at least 2,000 feet above the airport elevation; and

(2) The visibility will be at least 3 miles.

(c) *IFR alternate airport weather minimums.* Unless otherwise authorized by the Administrator, no person may include an alternate airport in an IFR flight plan unless current weather forecasts indicate that, at the estimated time of arrival at the alternate airport, the ceiling and visibility at that airport will be at or above the following alternate airport weather minimums:

(1) If an instrument approach procedure has been published in Part 97 for that airport, the alternate airport minimums specified in that procedure or, if none are so specified, the following minimums:

(i) Precision approach procedure: Ceiling 600 feet and visibility 2 statute miles.

(ii) Nonprecision approach procedure: Ceiling 800 feet and visibility 2 statute miles.

(2) If no instrument approach procedure has been published in Part 97 for that airport, the ceiling and visibility minimums are those allowing descent from the MEA, approach, and landing under basic VFR.

(d) *Cancellation.* When a flight plan has been activated, the pilot in command, upon canceling or completing the flight under the flight plan, shall notify an FAA Flight Service Station or ATC facility.

**§ 91.171 VOR equipment check for IFR operations.**

(a) No person may operate a civil aircraft under IFR using the VOR system of radio navigation unless the VOR equipment of that aircraft—

(1) Is maintained, checked, and inspected under an approved procedure; or

(2) Has been operationally checked within the preceding 30 days and was found to be within the limits of the permissible indicated bearing error set forth in paragraph (b) or (c) of this section.

(b) Except as provided in paragraph (c) of this section, each person conducting a VOR check under subparagraph (a)(2) of this section shall—

(1) Use, at the airport of intended departure, an FAA-operated or approved test signal or a test signal radiated by a certificated and appropriately rated radio repair station or, outside the United States, a test signal operated or approved by an appropriate authority to check the VOR equipment (the maximum permissible indicated bearing error is plus or minus 4 degrees); or

(2) If a test signal is not available at the airport of intended departure, use a point on an airport surface designated as a VOR system checkpoint by the Administrator, or, outside the United States, by an appropriate authority (the maximum permissible bearing error is plus or minus 4 degrees);

(3) If neither a test signal nor a designated checkpoint on the surface is available, use an airborne checkpoint designated by the Administrator or, outside the United States, by an appropriate authority (the maximum permissible bearing error is plus or minus 6 degrees); or

(4) If no check signal or point is available, while in flight—

(i) Select a VOR radial that lies along the centerline of an established VOR airway;

(ii) Select a prominent ground point along the selected radial preferably more than 20 miles from the VOR ground facility and maneuver the aircraft directly over the point at a reasonably low altitude; and

(iii) Note the VOR bearing indicated by the receiver when over the ground point (the maximum permissible variation between the published radial and the indicated bearing is 6 degrees).

(c) If dual system VOR (units independent of each other except for the antenna) is installed in the aircraft, the person checking the equipment may check one system against the other in place of the check procedures specified in paragraph (b) of this section. He shall tune both systems to the same VOR ground facility and note the indicated bearings to that station. The maximum

permissible variation between the two indicated bearings is 4 degrees.

(d) Each person making the VOR operational check, as specified in paragraph (b) or (c) of this section, shall enter the date, place, bearing error, and sign the aircraft log or other record. In addition, if a test signal radiated by a repair station, as specified in paragraph (b)(1) of this section, is used, an entry must be made in the aircraft log or other record by the repair station certificate holder or the certificate holder's representative certifying to the bearing transmitted by the repair station for the check and the date of transmission.

**§ 91.173 ATC clearance and flight plan required.**

No person may operate an aircraft in controlled airspace under IFR unless—

(a) He has filed an IFR flight plan; and

(b) He has received an appropriate ATC clearance.

**§ 91.175 Takeoff and landing under IFR.**

(a) *Instrument approaches to civil airports.* Unless otherwise authorized by the Administrator for paragraphs (a) through (k) of this section, when an instrument letdown to a civil airport is necessary, each person operating an aircraft, except a military aircraft of the United States, shall use a standard instrument approach procedure prescribed for the airport in Part 97 of this chapter.

(b) *Authorized DH or MDA.* For the purpose of this section, when the approach procedure being used provides for and requires use of a DH or MDA, the authorized decision height or authorized minimum descent altitude is the DH or MDA prescribed by the approach procedure, the DH or MDA prescribed for the pilot in command, or the DH or MDA for which the aircraft is equipped, whichever is higher.

(c) *Operation below DH or MDA.* Where a DH or MDA is applicable, no pilot may operate an aircraft, except a military aircraft of the United States, at any airport below the authorized MDA or continue an approach below the authorized DH unless—

(1) The aircraft is continuously in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, and for operations conducted under Part 121 or Part 135 unless that descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing;

(2) The flight visibility is not less than the visibility prescribed in the standard instrument approach being used;

(3) Except for a Category II or Category III approach where any necessary visual reference requirements are specified by the Administrator, at least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot;

(i) The approach light system, except that the pilot may not descend below 100 feet above the touchdown zone elevation using the approach lights as a reference unless the red terminating bars or the red slide side row bars are also distinctly visible and identifiable.

(ii) The threshold.

(iii) The threshold markings.

(iv) The threshold lights.

(v) The runway end identifier lights.

(vi) The visual approach slope indicator.

(vii) The touchdown zone or touchdown zone markings.

(viii) The touchdown zone lights.

(ix) The runway or runway markings.

(x) The runway lights; and

(4) When the aircraft is on a straight-in nonprecision approach procedure which incorporates a visual descent point, the aircraft has reached the visual descent point, except where the aircraft is not equipped for or capable of establishing that point or a descent to the runway cannot be made using normal procedures or rates of descent if descent is delayed until reaching the point.

(d) *Landing.* No pilot operating an aircraft, except a military aircraft of the United States, may land that aircraft when the flight visibility is less than the visibility prescribed in the standard instrument approach procedure being used.

(e) *Missed approach procedures.* Each pilot operating an aircraft, except a military aircraft of the United States, shall immediately execute an appropriate missed approach procedure when either of the following conditions exist:

(1) Whenever the requirements of paragraph (c) of this section are not met at either of the following times:

(i) When the aircraft is being operated below MDA; or

(ii) Upon arrival at the missed approach point, including a DH where a DH is specified and its use is required, and at any time after that until touchdown.

(2) Whenever an identifiable part of the airport is not distinctly visible to the pilot during a circling maneuver at or above MDA, unless the inability to see an identifiable part of the airport results only from a normal bank of the aircraft during the circling approach.

(f) *Civil airport takeoff minimums.* Unless otherwise authorized by the Administrator, no pilot operating an aircraft under Part 121, 123, 125, 129, or 135 of this chapter may take off from a civil airport under IFR unless weather conditions are at or above the weather minimums for IFR takeoff prescribed for that airport under Part 97 of this chapter. If takeoff minimums are not prescribed under Part 97 of this chapter for a particular airport, the following minimums apply to takeoffs under IFR for aircraft operating under those parts:

(1) For aircraft having two engines or less—1 statute mile visibility.

(2) For aircraft having more than two engines—½ statute mile visibility.

(g) *Military airports.* Unless otherwise prescribed by the Administrator, each person operating a civil aircraft under IFR into or out of a military airport shall comply with the instrument approach procedures and the takeoff and landing minimums prescribed by the military authority having jurisdiction of that airport.

(h) *Comparable values of RVR and ground visibility.*

(1) Except for Category II or Category III minimums, if RVR minimums for takeoff or landing are prescribed in an instrument approach procedure, but RVR is not reported for the runway of intended operation, the RVR minimum shall be converted to ground visibility in accordance with the table in paragraph (h)(2) of this section and shall be the visibility minimum for takeoff or landing on that runway.

(2)

| RVR (feet) | Visibility (statute miles) |
|---|---|
| 1,600 | ¼ |
| 2,400 | ½ |
| 3,200 | ⅝ |
| 4,000 | ¾ |
| 4,500 | ⅞ |
| 5,000 | 1 |
| 6,000 | 1¼ |

(i) *Operations on unpublished routes and use of radar in instrument approach procedures.* When radar is approved at certain locations for ATC purposes, it may be used no only for surveillance and precision radar approaches, as applicable, but also may be used in conjunction with instrument approach procedures predicted on other types of radio navigational aids. Radar vectors may be authorized to provide course guidance through the segments of an approach to the final course or fix. When operating on an unpublished route or while being radar vectored, the pilot, when an approach clearance is

received, shall, in addition to complying with § 91.177, maintain the last altitude assigned to that pilot until the aircraft is established on a segment of a published route or instrument approach procedure unless a different altitude is assigned by ATC. After the aircraft is so established, published altitudes apply to descent within each succeeding route or approach segment unless a different altitude is assigned by ATC. Upon reaching the final approach course or fix, the pilot may either complete the instrument approach in accordance with a procedure approved for the facility or continue a surveillance or precision radar approach to a landing.

(j) *Limitation on procedure turns.* In the case of a radar vector to a final approach course or fix, a timed approach from a holding fix, or an approach for which the procedure specifies "No PT," no pilot may make a procedure turn unless cleared to do so by ATC.

(k) *ILS components.* The basic ground components of an ILS are the localizer, glide slope, outer marker, middle marker, and, when installed for use with Category II or Category III instrument approach procedures, an inner marker. A compass locator or precision radar may be substituted for the outer or middle marker. DME, VOR, or nondirectional beacon fixes authorized in the standard instrument approach procedure or surveillance radar may be substituted for the outer marker. Applicability of, and substitution for, the inner marker for Category II or III approaches is determined by the appropriate Part 97 approach procedure, letter of authorization, or operations specification pertinent to the operations.

**§ 91.177 Minimum altitudes for IFR operations.**

(a) *Operation of aircraft at minimum altitudes.* Except when necessary for takeoff or landing, or unless otherwise authorized by the Administrator, no person may operate an aircraft under IFR below—

(1) The applicable minimum altitudes prescribed in Parts 95 and 97 of this chapter; or

(2) If no applicable minimum altitude is prescribed in those parts—

(i) In the case of operations over an area designated as a mountainous area in Part 95, an altitude of 2,000 feet above the highest obstacle within a horizontal distance of 5 statute miles from the course to be flown; or

(ii) In any other case, an altitude of 1,000 feet above the highest obstacle within a horizontal distance of 5 statute miles form the course to be flown.

However, if both a MEA and a MOCA are prescribed for a particular route or route segment, a person may operate an aircraft below the MEA down to, but not below, the MOCA, when within 25 statute miles of the VOR concerned (based on the pilot's reasonable estimate of that distance).

(b) *Climb.* Climb to a higher minimum IFR altitude shall begin immediately after passing the point beyond which that minimum altitude applies, except that when ground obstructions intervene, the point beyond which the higher minimum altitude applies shall be crossed at or above the applicable MCA.

**§ 91.179 IFR cruising altitude or flight level.**

(a) *In controlled airspace.* Each person operating an aircraft under IFR in level cruising flight in controlled airspace shall maintain the altitude or flight level assigned that aircraft by ATC. However, if the ATC clearance assigns "VFR conditions on-top," he shall maintain an altitude or flight level as prescribed by § 91.159.

(b) *In uncontrolled airspace.* Except while holding in a holding pattern of 2 minutes or less or while turning, each person operating an aircraft under IFR in level cruising flight in uncontrolled airspace shall maintain an appropriate altitude as follows:

(1) When operating below 18,000 feet MSL and—

(i) On a magnetic course of zero degrees through 179 degrees, any odd thousand foot MSL altitude (such as 3,000, 5,000, or 7,000); or

(ii) On a magnetic course of 180 degrees through 359 degrees, any even thousand foot MSL altitude (such as 2,000, 4,000, or 6,000).

(2) When operating at or above 18,000 feet MSL but below flight level 290, and—

(i) On a magnetic course of zero degrees through 179 degrees, any odd flight level (such as 190, 210, or 230); or

(ii) On a magnetic course of 180 degrees through 359 degrees, any even flight level (such as 180, 200, or 220).

(3) When operating at flight level 290 and above, and—

(i) On a magnetic course of zero degrees through 179 degrees, any flight level, at 4,000-foot intervals, beginning at and including flight level 290 (such as flight level 290, 330, or 370); or

(ii) On a magnetic course of 180 degrees through 359 degrees, any flight level, at 4,000 foot intervals, beginning at and including flight level 310 (such as flight level 310, 350, or 390).

**§ 91.181 Course to be flown.**

Unless otherwise authorized by ATC, no person may operate an aircraft within controlled airspace under IFR except as follows:

(a) On a Federal airway, along the centerline of that airway.

(b) On any other route, along the direct course between the navigational aids or fixes defining that route.

However, this section does not prohibit maneuvering the aircraft to pass well clear of other air traffic or the maneuvering of the aircraft in VFR conditions to clear the intended flight path both before and during climb or descent.

**§ 91.173 IFR radio communications.**

The pilot in command of each aircraft operated under IFR in controlled airspace shall have a continuous watch maintained on the appropriate frequency and shall report by radio as soon as possible—

(a) The time and altitude of passing each designated reporting point, or the reporting points specified by ATC, except that while the aircraft is under radar control, only the passing of those reporting points specifically requested by ATC need be reported;

(b) Any unforecast weather condition encountered; and

(c) Any other information relating to the safety of flight.

**§ 91.185 IFR operations. Two-way radio communications failure.**

(a) *General.* Unless otherwise authorized by ATC, each pilot who has two-way communications failure when operating under IFR shall comply with the rules of this section.

(b) *VFR conditions.* If the failure occurs in VFR conditions, or if VFR conditions are encountered after the failure, each pilot shall continue the flight under VFR and land as soon as practicable.

(c) *IFR conditions.* If the failure occurs in IFR conditions, or if paragraph (b) of this section cannot be complied with, each pilot shall continue the flight according to the following:

(1) *Route.* (i) By the route assigned in the last ATC clearance received;

(ii) If being radar vectored, by the direct route from the point of radio failure to the fix, route, or airway specified in the vector clearance;

(iii) In the absence of an assigned route, by the route that ATC has advised may be expected in a further clearance; or

(iv) In the absence of an assigned route or a route that ATC has advised

may be expected in a further clearance, by the route filed in the flight plan.

(2) *Altitude.* At the highest of the following altitudes of flight levels for the route segment being flown:

(i) The altitude or flight level assigned in the last ATC clearance received;

(ii) The minimum altitude (converted, if appropriate, to minimum flight level as prescribed in § 91.121(c)) for IFR operations; or

(iii) The altitude or flight level ATC has advised may be expected in a further clearance.

(3) *Leave holding fix.* If holding instructions have been received, leave the holding fix at the expect-further-clearance time received or, if an expected approach clearance time has been received, leave the holding fix in order to arrive over the fix from which the approach begins as close as possible to the expected approach clearance time.

(4) *Descent for approach.* Begin descent from the en route altitude or flight level upon reaching the fix from which the approach begins, but not before—

(i) The expect-approach-clearance time (if received); or

(ii) If no expect-approach-clearance time has been received, at the estimated time of arrival, shown on the flight plan, as amended with ATC.

**§ 91.187 Operation under IFR in controlled airspace: Malfunction reports.**

(a) The pilot in command of each aircraft operated in controlled airspace under IFR shall report immediately to ATC any of the following malfunctions of equipment occurring in flight:

(1) Loss of VOR, TACAN, ADF, or low frequency navigation receiver capability.

(2) Complete or partial loss of ILS receiver capability.

(3) Impairment of air/ground communications capability.

(b) In each report required by paragraph (a) of this section, the pilot in command shall include the—

(1) Aircraft identification;

(2) Equipment affected;

(3) Degree to which the capability of the pilot to operate under IFR in the ATC system is impaired; and

(4) Nature and extent of assistance he desires from ATC.

**§ 91.189 Category II and III operations: General operating rules.**

(a) No person may operate a civil aircraft in a Category II or III operation unless—

(1) The flightcrew of the aircraft consists of a pilot in command and a second in command who hold the appropriate authorizations and ratings prescribed in § 61.3 of this chapter;

(2) Each flight crewmember has adequate knowledge of, and familiarity with, the aircraft and the procedures to be used; and

(3) The instrument panel in front of the pilot who is controlling the aircraft has appropriate instrumentation for the type of flight control guidance system that is being used.

(b) Unless otherwise authorized by the Administrator, no person may operate a civil aircraft in a Category II or Category III operation unless each ground component required for that operation and the related airborne equipment is installed and operating.

(c) For the purpose of this section, when the approach procedure being used provides for and requires use of a DH, the authorized decision height is the DH prescribed by the approach procedure, the DH prescribed for the pilot in command, or the DH for which the aircraft is equipped, whichever is higher.

(d) Unless otherwise authorized by the Administrator, no pilot operating an aircraft in Category II or Category III approach that provides and requires use of a DH may continue the approach below the authorized decision height unless the following conditions are met:

(1) The aircraft is in a position from which a descent to a landing on the intended runway can be made at a normal rate of descent using normal maneuvers, and where the descent rate will allow touchdown to occur within the touchdown zone of the runway of intended landing.

(2) At least one of the following visual references for the intended runway is distinctly visible and identifiable to the pilot:

(i) The approach light system, except that the pilot may not descend below 100 feet above the touchdown zone elevation using the approach lights as a reference unless the red terminating bars or the red side row bars are also distinctly visible and identifiable.

(ii) The threshold.

(iii) The threshold markings.

(iv) The threshold lights.

(v) The touchdown zone or touchdown zone markings.

(vi) The touchdown zone lights.

(e) Unless otherwise authorized by the Administrator, each pilot operating an aircraft shall immediately execute an appropriate missed approach whenever prior to touchdown the requirements of paragraph (d) of this section are not met.

(f) No person operating an aircraft using a Category III approach without decision height may land that aircraft except in accordance with the provisions of the letter of authorization issued by the Administrator.

(g) Paragraphs (a) through (f) of this section do not apply to operations conducted by the holders of certificates issued under Parts 121, 123, 125, 129, or 135 of this chapter. No person may operate a civil aircraft in a Category II or Category III operation conducted by the holder of a certificate issued under Parts 121, 123, 125, 129, or 135 of this chapter unless the operation is conducted in accordance with that certificate holder's operation specifications.

**§ 91.191 Category II manual.**

(a) No person may operate a civil aircraft of United States registry in a Category II operation unless—

(1) There is available in the aircraft a current, approved Category II manual for that aircraft;

(2) The operation is conducted in accordance with the procedures, instructions, and limitations in that manual; and

(3) The instruments and equipment listed in the manual that are required for a particular Category II operation have been inspected and maintained in accordance with the maintenance program contained in that manual.

(b) Each operator shall keep a current copy of the approved manual at its principal base of operations and shall make it available for inspection upon request of the Administrator.

(c) This section does not apply to operations conducted by the holder of a certificate issued under Part 121 of this chapter.

**§ 91.193 Certificate of authorization for certain Category II operations.**

The Administrator may issue a certificate of authorization authorizing deviations from the requirements of §§ 91.189, 91.191, and 91.205(f) for the operation of small airplanes identified as Category A aircraft in § 97.3 of this chapter in Category II operations if he finds that the proposed operation can be safely conducted under the terms of the certificate. Such authorization does not permit operation of the aircraft carrying persons or property for compensation or hire.

**§§ 91.195–91.199 [Reserved]**

## Subpart C—Equipment, Instrument, and Certificate Requirements

**§ 91.201 *Applicability.***

This subpart prescribes general equipment, instrument, and certificate requirements.

**§ 91.203 Civil aircraft: Certifications required.**

(a) Except as provided in § 91.717, no person may operate a civil aircraft unless it has within it the following:

(1) An appropriate and current airworthiness certificate: Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under § 21.197(c) of this chapter, appropriate sections of the air carrier manual required by Parts 121 and 127 of this chapter containing that portion of the operations specifications issued under § 21.197(c), or an authorization under § 91.613) must have on it the registration number assigned to the aircraft under Part 47 of this chapter. However, the airworthiness certificate need not have on it as assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number that has been affixed to an aircraft may only be obtained upon application to an FAA Flight Standards district office.

(2) A registration certificate issued to its owner.

(b) No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under § 91.717 is displayed at the cabin or cockpit entrance so that it is legible to passengers or crew.

**§ 91.205 Powered civil aircraft with standard category U.S. airworthiness certificates: Instrument and equipment requirements.**

(a) *General.* Except as provided in paragraphs (c)(3) and (e) of this section, no person may operate a powered civil aircraft with a standard category U.S. airworthiness certificate in any operation described in paragraphs (b) through (f) of this section unless that aircraft contains the instruments and equipment specified in those paragraphs (or FAA-approved equivalents) for that type of operation, and those instruments and items of equipment are in operable condition.

(b) *Visual flight rules (day).* For VFR flight during the day, the following instruments and equipment are required:

(1) Airspeed indicator.

(2) Altimeter.

(3) Magnetic direction indicator.

(4) Tachometer for each engine.

(5) Oil pressure gauge for each engine using pressure system.

(6) Temperature gauge for each liquid-cooled engine.

(7) Oil temperature gauge for each air-cooled engine.

(8) Manifold pressure gauge for each altitude engine.

(9) Fuel gauge indicating the quantity of fuel in each tank.

(10) Landing gear position indicator, if the aircraft has a retractable landing gear.

(11) If the aircraft is operated for hire over water and beyond power-off gliding distance from shore, approved flotation gear readily available to each occupant and at least one pyrotechnic signaling device.

(12) Except as to airships, an approved safety belt for all occupants who have reached their second birthday. After December 4, 1981, each safety belt must be equipped with an approved metal-to-metal latching device. The rated strength of each safety belt shall not be less than that corresponding with the ultimate load factors specified in the current applicable aircraft airworthiness requirements considering the dimensional characteristics of the safety belt installation for the specific seat or berth arrangement. The webbing of each safety belt shall be replaced as required by the Administrator.

(13) For small civil airplanes manufactured after July 18, 1978, an approved shoulder harness for each front seat. The shoulder harness must be designed to protect the occupant from serious head injury when the occupant experiences the ultimate inertia forces specified in § 23.561(b)(2) of this chapter. Each shoulder harness installed at a flight crewmember station must permit the crewmember, when seated and with his safety belt and shoulder harness fastened, to peform all fuctions necessary for flight operations. For purposes of this paragraph—

(i) The date of manufacture of an airplane is the date the inspection acceptance records reflect that the airplane is complete and meets the FAA-approved type design data; and

(ii) A front seat is a seat located at a flight crewmember station or any seat located alongside such a seat.

(c) *Visual flight rules (night).* For VFR flight at night, the following instruments and equipment are required:

(1) Instruments and equipment specified in paragraph (b) of this section.

(2) Approved position lights.

(3) An approved aviation red or aviation white anticollision light system on all U.S.-Registered civil aircraft. Anticollision light systems initially installed after August 11, 1971, on aircraft for which a type certificate was issued or applied for before August 11, 1971, must at least meet the anticollision light standards of Part 23, 25, 27, or 29, as applicable, that were in effect on August 10, 1971, except that the color may be either aviation red or aviation white. In the event of failure of any light of the anticollision light system, operations with the aircraft may be continued to a stop where repairs or replacement can be made.

(4) If the aircraft is operated for hire, one electric landing light.

(5) An adequate source of electrical energy for all installed electrical and radio equipment.

(6) One spare set of fuses, or three spare fuses of each kind required.

(d) *Instrument flight rules.* For IFR flight the following instruments and equipment are required:

(1) Instruments and equipment specified in paragraph (b) of this section, and for night flight, instruments and equipment specified in paragraph (c) of this section.

(2) Two-way radio communications system and navigational equipment appropriate to the ground facilities to be used.

(3) Gyroscopic rate-of-turn indicator, except on the following aircraft:

(i) Large airplanes with a third attitude instrument system useable through flight attitudes of 360 degrees of pitch and roll and installed in accrodance with § 212.305(j) of this chapter; and

(ii) Rotorcraft, type certificated under Part 29 of this chapter, with a third attitude instrument system useable through flight attitudes of ±80 degrees of pitch and ±120 degrees of roll and installed in accordance with § 29.1303(g) of this chapter.

(4) Slip-skid indicator.

(5) Sensitive altimeter adjustable for barometric pressure.

(6) A clock displaying hours, minutes, and seconds with a sweep-second pointer or digital presentation.

(7) Generator of adequate capacity.

(8) Gyroscopic pitch and bank indicator (artificial horizon).

(9) Gyroscopic direction indicator (directional gyro or equivalent).

(e) *Flight at and above 24,000 feet MSL.* If VOR navigational equipment is required under paragraph (d)(2) of this section, no person may operate a U.S.-registered civil aircraft within the 50 states and the District of Columbia at or above 24,000 feet MSL unless that aircraft is equipped with approved distance measuring equipment (DME). When DME required by this paragraph fails at and above 24,000 feet MSL, the pilot in command of the aircraft shall notify ATC immediately, and then may

continue operations at and above 24,000 feet MSL to the next airport of intended landing at which repairs or replacement of the equipment can be made.

(f) *Category II operations.* For Category II operations the instruments and equipment specified in paragraph (d) of this section and Appendix A to this part are required. This paragraph does not apply to operations conducted by the holder of a certificate issued under Part 121 of this chapter.

**§ 91.207 Emergency locator transmitters.**

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S.-registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c), and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S.-registered civil airplane must be equipped as follows:

(1) For operations governed by the supplemental air carrier and commercial operator rules of Part 121 and 125 of this chapter or the air travel club rules of Part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO–C91.

(2) For charter flights governed by the domestic and flag air carrier rules of Part 121 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO–C91.

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO–C91.

(4) For operations other than those specified in paragraphs (6)(1), (2), and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO–C91.

(c) Each emergency locator transmitter required by paragraphs (a) and (b) of this section must be attached to the airplane in such a manner that the probability of damage to the transmitter in the event of crash impact is minimized. Fixed and deployable automatic type transmitters must be attached to the airplane as far aft as practicable.

(d) Batteries used in the emergency locator transmitters required by paragraphs (a) and (b) of this section must be replaced (or recharged, if the battery is rechargeable)—

(1) When the transmitter has been in use for more than 1 cumulative hour; or

(2) When 50 percent of their useful life (or, for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer under TSO–C91, paragraph (g)(2), has expired.

The new expiration date for the replacement (or recharge) of the battery must be marked legibly on the outside of the transmitter and entered in the aircraft maintenance record. Subparagraph (d)(2) of this paragraph does not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

(e) Notwithstanding paragraphs (a) and (b) of this section, a person may—

(1) Ferry a newly acquired airplane from the place where possession of it was taken to a place where the emergency locator transmitter is to be installed; and

(2) Ferry an airplane with an inoperative emergency locator transmitter from a place where repairs or replacement cannot be made to a place where they can be made.

No person other than required crewmembers may be carried aboard an airplane being ferried pursuant to paragraph (e) of this section.

(f) Paragraphs (a) and (b) of this section do not apply to—

(1) Turbojet-powered aircraft;

(2) Aircraft while engaged in scheduled flights by scheduled air carriers certificated by the Civil Aeronautics Board;

(3) Aircraft while engaged in training operations conducted entirely within a 50-mile radius of the airport from which such local flight operations began;

(4) Aircraft while engaged in flight operations incident to design and testing;

(5) New aircraft while engaged in flight operations incident to their manufacture, preparation, and delivery;

(6) Aircraft while engaged in flight operations incident to the aerial application of chemicals and other substances for agricultural purposes;

(7) Aircraft certificated by the Administrator for research and development purposes;

(8) Aircraft while used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys;

(9) Aircraft equipped to carry not more than one person; and

(10) An aircraft during any period for which the transmitter has been temporarily removed for inspection, repair, modification, or replacement, subject to the following:

(i) No person may operate the aircraft unless the aircraft records contain an entry which includes the date of initial removal, the make, model, serial number, and reason for removal of the transmitter, and a placard is located in view of the pilot to show "ELT not installed."

(ii) No person may operate the aircraft more than 90 days after the ELT is initially removed from the aircraft.

**§ 91.209 Aircraft lights.**

No person may, during the period from sunset to sunrise (or, in Alaska, during the period a prominent unlighted object cannot be seen from a distance of 3 statute miles or the sun is more than 6 degrees below the horizon)—

(a) Operate an aircraft unless it has lighted position lights;

(b) Park or move an aircraft in, or in dangerous proximity to, a night flight operations area of an airport unless the aircraft—

(1) Is clearly illuminated;

(2) Has lighted position lights; or

(3) Is in an area which is marked by obstruction lights;

(c) Anchor an aircraft unless the aircraft—

(1) Has lighted anchor lights; or

(2) Is in an area where anchor lights are not required on vessels; or

(d) Operate an aircraft, required by § 91.205(c)(3) to be equipped with an anticollision light system, unless it has approved and lighted aviation red or aviation white anticollision lights. However, the anticollision lights need not be lighted when the pilot in command determines that, because of operating conditions, it would be in the interest of safety to turn the lights off.

**§ 91.211 Supplemental oxygen.**

(a) *General.* No person may operate a civil aircraft of U.S. registry—

(1) At cabin pressure altitudes above 12,500 feet (MSL) up to and including 14,000 feet (MSL) unless the required minimum flightcrew is provided with and uses supplemental oxygen for that part of the flight at those altitudes that is of more than 30 minutes duration;

(2) At cabin pressure altitudes above 14,000 feet (MSL) unless the required minimum flightcrew is provided with and uses supplemental oxygen during the entire flight time at those altitudes; and

(3) At cabin pressure altitudes above 15,000 feet (MSL) unless each occupant of the aircraft is provided with supplemental oxygen.

(b) *Pressurized cabin aircraft.* (1) No person may operate a civil aircraft of U.S. registry with a pressurized cabin—

(i) At flight altitudes above flight level 250 unless at least a 10-minute supply of supplemental oxygen, in addition to any oxygen required to satisfy paragraph (a) of this section, is available for each occupant of the aircraft for use in the event that a descent is necessitated by loss of cabin pressurization; and

(ii) At flight altitudes above flight level 350 unless one pilot at the controls of the airplane is wearing and using an oxygen mask that is secured and sealed and that either supplies oxygen at all times or automatically supplies oxygen whenever the cabin pressure altitude of the airplane exceeds 14,000 feet (MSL), except that the one pilot need not wear and use an oxygen mask while at or below flight level 410 if there are two pilots at the controls and each pilot has a quick-donning type of oxygen mask that can be placed on the face with one hand from the ready position within 5 seconds; supplying oxygen and properly secured and sealed.

(2) Notwithstanding subparagraph (b)(1)(ii) of this section, if for any reason at any time it is necessary for one pilot to leave his station at the controls of the aircraft when operating at flight altitudes above flight level 350, the remaining pilot at the controls shall put on and use his oxygen mask until the other pilot has returned to his station.

**§ 91.213 Inoperable instruments and equipment for multiengine aircraft.**

(a) No person may take off a multiengine civil aircraft with inoperable instruments or equipment installed unless the following conditions are met:

(1) An approved minimum equipment list exists for that aircraft.

(2) The aircraft has within it a letter of authorization, issued by the FAA Flight Standards district office having jurisdiction over the area in which the operator is located, authorizing operation of the aircraft under the minimum equipment list. The letter of authorization may be obtained by written request of the airworthiness certificate holder. The minimum equipment list and the letter of authorization constitute a supplemental type certificate for the aircraft.

(3) The approved minimum equipment list must—

(i) Be prepared in accordance with the limitations specified in paragraph (b) of this section; and

(ii) Provide for the operation of the aircraft with the instruments and equipment in an inoperable condition.

(4) The aircraft records available to the pilot must include an entry describing the inoperable instruments and equipment.

(5) The aircraft is operated under all applicable conditions and limitations contained in the minimum equipment list and the letter authorizing the use of the list.

(b) The following instruments and equipment may not be included in a minimum equipment list:

(1) Instruments and equipment that are either specifically or otherwise required by the airworthiness requirements under which the aircraft is type certificated and which are essential for safe operations under all operating conditions.

(2) Instruments and equipment required by an airworthiness directive to be in operable condition unless the airworthiness directive provides otherwise.

(3) Instruments and equipment required for specific operations by this part.

(c) A person authorized to use an approved minimum equipment list issued under Part 121, 125, or 135 for a specific aircraft may use that minimum equipment list in connection with operations conducted with that aircraft under this part.

(d) Notwithstanding any other provision of this section, an aircraft with inoperable instruments or equipment may be operated under a special flight permit issued in accordance with §§ 21.197 and 21.199 of this chapter.

Effective Date Note: The effective date of § 91.213 was stayed indefinitely at 44 FR 62885, November 1, 1979.

**§ 91.215 ATC transponder and altitude reporting equipment and use.**

(a) *All airspace: U.S.-registered civil aircraft.* For operations not conducted under Part 121, 123, 125, 127, or 135 of this chapter, ATC transponder equipment installed after January 1, 1974, in U.S.-registered civil aircraft not previously equipped with an ATC transponder and all ATC transponder equipment used in U.S.-registered civil aircraft after July 1, 1975, must meet the performance and environmental requirements of any class of TSO-C74b or any class of TSO-C74c, as appropriate, except that the Administrator may approve the use of TSO-C74 or TSO-C74a equipment after July 1, 1975, if the applicant submits data showing that such equipment meets the minimum performance standards of the appropriate class of TSO-C74c and environmental conditions of the TSO under which it was manufactured.

(b) *Controlled airspace: All aircraft.* Except for persons operating helicopters in terminal control areas at or below 1,000 feet AGL under the terms of a letter of agreement, and except for persons operating gliders above 12,500 feet MSL but below the floor of the positive control area, no person may operate an aircraft in the controlled airspace prescribed in subparagraphs (b)(1) through (b)(4) of this paragraph unless that aircraft is equipped with an operable coded radar beacon transponder having a Mode 3/A 4096 code capability, replying to Mode 3/A interrogation with the code specified by ATC, and is equipped with automatic pressure altitude reporting equipment having a Mode C capability that automatically replies to Mode C interrogations by transmitting pressure altitude information in 100-foot increments. This requirement applies—

(1) In Group I terminal control areas governed by § 91.133(a);

(2) In Group II terminal control areas governed by § 91.133(b), except as provided therein;

(3) In Group III terminal control areas governed by § 91.133(c), except as provided therein; and

(4) In all controlled airspace of the 48 contiguous States and the District of Columbia above 12,500 feet MSL, excluding the airspace at and below 2,500 feet AGL.

(c) *ATC authorized deviations.* ATC may authorize deviations from paragraph (b) of this section—

(1) Immediately, to allow an aircraft with an inoperative transponder to continue to the airport of ultimate destination, including any intermediate stops, or to proceed to a place where suitable repairs can be made, or both;

(2) Immediately, for operations of aircraft with an operating transponder but without operating automatic pressure altitude reporting equipment having a Mode C capability; and

(3) On a continuing basis, or for individual flights, for operations of aircraft without a transponder, in which case the request for a diviation must be submitted to the ACT facility having jurisdiction over the airspace concerned at least 4 hours before the proposed operation.

**§ 91.217 Data correspondence between automatically reported pressure altitude data and the pilot's altitude reference.**

No person may operate any automatic pressure altitude reporting equipment associated with a radar beacon transponder—

(a) When deactivation of that equipment is directed by ATC;

(b) Unless, as installed, that equipment was tested and calibrated to transmit altitude data corresponding within 125 feet (on a 95 percent probability basis) of the indicated or calibrated datum of the altimeter normally used to maintain flight altitude, with that altimeter referenced to 29.92 inches of mercury for altitudes from sea level to the maximum operating altitude of the aircraft; or

(c) The altimeters and digitizers in that equipment meet the standards of TSO-C10b and TSO-C88, respectively.

**§ 91.219 Altitude alerting system or device: Turbojet-powered civil airplanes.**

(a) Except as provided in paragraph (d) of this section, no person may operate a turbojet-powered U.S.-registered civil airplane unless that airplane is equipped with an approved altitude altering system or device that is in operable condition and meets the requirements of paragraph (b) of this section.

(b) Each altitude alerting system or device required by paragraph (a) of this section must be able to—

(1) Alert the pilot—

(i) Upon approaching a preselected altitude in either ascent or descent, by a sequence of both aural and visual signals in sufficient time to establish level flight at that preselected altitude; or

(ii) Upon approaching a preselected altitude in either ascent or descent, by a sequence of visual signals in sufficient time to establish level flight at that preselected altitude, and when deviating above and below that preselected altitude, by an aural signal;

(2) Provide the required signals from sea level to the highest operating altitude approved for the airplane in which it is installed;

(3) Preselected altitudes in increments that are commensurate with the altitudes at which the aircraft is operated;

(4) Be tested without special equipment to determine proper operation of the alerting signals; and

(5) Accept necessary barometric pressure settings if the system or device operates on barometric pressure.

However, for operations below 3,000 feet AGL, the system or device need only provide one signal, either visual or aural, to comply with this paragraph. A radio altimeter may be included to provide the signal if the operator has an approved procedure for its use to determine DH or MDA, as appropriate.

(c) Each operator to which this section applies must establish and assign procedures for the use of the altitude alerting system or device and each flight crewmember must comply with those procedures assigned to him.

(d) Paragraph (a) of this section does not apply to any operation of an airplane that has an experimental certificate or to the operation of an airplane for the following purposes:

(1) Ferrying a newly acquired airplane from the place where possession of it was taken to a place where the latitude alerting system or device is to be installed.

(2) Continuing a flight as originally planned, if the altitude alerting system or device becomes inoperative after the airplane has taken off; however, the flight may not depart from a place where repair or replacement can be made.

(3) Ferrying an airplane with an inoperative altitude alerting system or device from a place where repair or replacement cannot be made to a place where it can be made.

(4) Conducting an airworthiness flight test of the airplane.

(5) Ferrying an airplane to a place outside the United States for the purpose of registering it in a foreign country.

(6) Conducting a sales demonstration of the operation of the operation of the airplane.

(7) Training foreign flightcrews in the operation of the airplane prior to ferrying it to a place outside the United States for the purpose of registering it in a foreign country.

**§§ 91.221-91.299 [Reserved]**

## Subpart D—Special Flight Operations

**§91.301 Applicability.**

This subpart prescribes additional rules concerning acrobatic flight, flight test areas, parachutes and parachuting, towing gliders, towing other than gliders, restricted category aircraft, limited category aircraft, provisionally certificated aircraft, experimentally certificated aircraft, and the carriage of candidates in Federal elections.

**§ 91.303 Acrobatic flight.**

No person may operate an aircraft in acrobatic flight—

(a) Over any congested area of a city, town, or settlement;

(b) Over an open air assembly of persons;

(c) Within a control zone or Federal airway;

(d) Below an altitude of 1,500 feet above the surface; or

(e) When flight visibility is less than 3 miles.

For the purposes of this section, acrobatic flight means an intentional maneuver involving an abrupt change in an aircraft's attitude, an abnormal attitude, or abnormal acceleration, not necessary for normal flight.

**§ 91.305 Flight test areas.**

No person may flight test an aircraft except over open water, or sparsely populated areas, having light air traffic.

**§ 91.307 Parachutes and parachuting.**

(a) No pilot of a civil aircraft may allow a parachute that is available for emergency use to be carried in that aircraft unless it is an approved type and—

(1) If a chair type (canopy in back), it has been packed by a certificated and appropriately rated parachute rigger within the preceding 120 days; or

(2) If any other type, it has been packed by a certificated and appropriately rated parachute rigger—

(i) Within the preceding 120 days, if its canopy, shrouds, and harness are composed exclusively of nylon, rayon, or other similar synthetic fiber or materials that are substantially resistant to damage from mold, mildew, or other fungi and other rotting agents propagated in a moist environment; or

(ii) Within the preceding 60 days, if any part of the parachute is composed of silk, pongee, or other natural fiber, or materials not specified in paragraph (a)(2)(i) of this section.

(b) Except in an emergency, no pilot in command may allow, and no person may make, a parachute jump from an aircraft within the United States except in accordance with Part 105.

(c) Unless each occupant of the aircraft is wearing an approved parachute, no pilot of a civil aircraft carrying any person (other than a crewmember) may execute any intentional maneuver that exceeds—

(1) A band of 60 degrees relative to the horizon; or

(2) A nose-up or nose-down attitude of 30 degrees relative to the horizon.

(d) Paragraph (c) of this section does not apply to—

(1) Flight tests for pilot certification or rating; or

(2) Spins and other flight maneuvers required by the regulations for any certificate or rating when given by—

(i) A certificated flight instructor; or

(ii) An airline transport pilot instructing in accordance with § 61.169 of this chapter.

(e) For the purposes of this section, "approved parachute" means—

(1) A parachute manufactured under a type certificate or a technical standard order (C-23 series); or

(2) A personnel-carrying military parachute identified by an NAF, AAF, or

AN drawing number, and AAF order number, or any other military designation or specification number.

**§ 91.309 Towing: Gliders.**

(a) No person may operate a civil aircraft towing a glider unless—

(1) The pilot in command of the towing aircraft is qualified under § 61.69 of this chapter;

(2) The towing aircraft is equipped with a tow-hitch of a kind, and installed in a manner, approved by the Administrator;

(3) The towline used has a breaking strength not less than 80 percent of the maximum certificated operating weight of the glider and not more than twice this operating weight. However, the towline used may have a breaking strength more than twice the maximum certificated operating weight of the glider if—

(i) A safety link is installed at the point of attachment of the towline to the glider with a breaking strength not less than 80 percent of maximum certificated operating weight of the glider and not greater than twice this operating weight; and

(ii) A safety link is installed at the point of attachment of the towline to the towing aircraft with a breaking strength greater, but not more than 25 percent greater, than that of the safety link at the towed glider end of the towline and not greater than twice the maximum certificated operating weight of the glider;

(4) Before conducting any towing operations within a control zone, or before making each towing flight within a control zone if required by ATC, the pilot in command notifies the control tower if one is in operation in that control zone. If such a control tower is not in operation, he must notify the FAA Flight Service Station serving the control zone before conducting any towing operation in that control zone; and

(5) The pilots of the towing aircraft and the glider have agreed upon a general course of action, including takeoff and release signals, airspeeds, and emergency procedures for each pilot.

(b) No pilot of a civil aircraft may intentionally release a towline, after release of a glider, in a manner so as to endanger the life or property of another.

**§ 91.311 Towing: Other than under § 91.309.**

No pilot of a civil aircraf may tow anything with that aircraft (other than under § 91.309) except in accordance with the terms of a certificate of waiver issued by the Administrator.

**§ 91.313 Restricted category civil aircraft: Operating limitations.**

(a) No person may operate a restricted category civil aircraft—

(1) For other than the special purpose for which it is certificated; or

(2) In an operation other than one necessary for the accomplishment of the work activity directly associated with that special purpose.

For the purposes of this paragraph, the operation of a restricted category civil aircraft to provide flight crewmember training in a special purpose operation for which the aircraft is certificated is considered to be an operation for that special purpose.

(b) No person may operate a restricted category civil aircraft carrying persons or property for compensation or hire. For the purposes of this paragraph, a special purpose operation involving the carriage of persons or materials necessary for the accomplishment of that operation such as crop dusting, seeding, spraying, and banner towing (including the carrying of required persons or materials to the location of that operation), and operation for the purpose of providing flight crewmember training in a special purpose operation, are not considered to be the carrying of persons or property for compensation or hire.

(c) No person may be carried on a restricted category civil aircraft unless—

(1) He is a flight crewmember;

(2) He is a flight crewmember trainee;

(3) He performs an essential function in connection with a special purpose operation for which the aircraft is certificated; or

(4) He is necessary for the accomplishment of the work activity directly associated with that special purpose.

(d) Except when operating in accordance with the terms and conditions of a certificate of waiver or special operating limitations issued by the Administrator, no person may operate a restricted category civil aircraft within the United States—

(1) Over a densely populated area;

(2) In a congested airway; or

(3) Near a busy airport where passenger transport operations are conducted.

(e) This section does not apply to nonpassenger-carrying civil rotorcraft external-load operations conducted under Part 133 of this chapter.

(f) No person may operate a small restricted category civil airplane, manufactured after July 18, 1978, unless an approved shoulder harness is installed for each front seat. The shoulder harness must be designed to protect each occupant from serious head injury when the occupant experiences the ultimate inertia forces specified in § 23.561(b)(2) of this chapter. The shoulder harness installation at each flight crewmember station must permit the crewmember, when seated and with his safety belt and shoulder harness fastened, to perform all functions necessary for flight operations. For purposes of this paragraph—

(1) The date of manufacture of an airplane is the date the inspection acceptance records reflect that the airplane is complete and meets the FAA-approved type design data; and

(2) A front seat is a seat located at a flight crewmember station or any seat located alongside such a seat.

**§ 91.315 Limited category civil aircraft: Operating limitations.**

No person may operate a limited category civil aircraft carrying persons or property for compensation or hire.

**§ 91.317 Provisionally certificated civil aircraft: Operating limitations.**

(a) No person may operate a provisionally certificated civil aircraft unless he is eligible for a provisional airworthiness certificate under § 21.213 of this chapter.

(b) No person may operate a provisionally certificated civil aircraft outside the United States unless he has specific authority to do so from the Administrator and each foreign country involved.

(c) Unless otherwise authorized by the Director of Airworthiness, no person may operate a provisionally certificated civil aircraft in air transportaion.

(d) Unless otherwise authorized by the Administrator, no person may operate a provisionally certificated civil aircraft except—

(1) In direct conjunction with the type of supplemental type certification of that aircraft;

(2) For training flightcrews, including simulated air carrier operations;

(3) Demonstration flights by the manufacturer for prospective purchasers;

(4) Market surveys by the manufacturer;

(5) Flight checking of instruments, accessories, and equipment that do not affect the basic airworthiness of the aircraft; or

(6) Service testing of the aircraft.

(e) Each person operating a provisionally certificated civil aircraft shall operate within the prescribed limitations displayed in the aircraft or set forth in the provisional aircraft flight manual or other appropriate document.

However, when operating in direct conjunction with the type or supplemental type certification of the aircraft, he shall operate under the experimental aircraft limitations of § 21.191 of this chapter and when flight testing, shall operate under the requirements of § 91.305 of this chapter.

(f) Each person operating a provisionally certificated civil aircraft shall establish approved procedures for—

(1) The use and guidance of flight and ground personnel in operating under this section; and

(2) Operating in and out of airports where takeoffs or approaches over populated areas are necessary.

No person may operate that aircraft except in compliance with the approved procedures.

(g) Each person operating a provisionally certificated civil aircraft shall ensure that each flight crewmember is properly certificated and has adequate knowledge of, and familiarity with, the aircraft and procedures to be used by that crewmember.

(h) Each person operating a provisionally certificated civil aircraft shall maintain it as required by applicable regulations and as may be specially prescribed by the Administrator.

(i) Whenever the manufacturer, or the Administrator, determines that a change in design, construction, or operation is necessary to ensure safe operation, no person may operate a provisionally certificated civil aircraft until that change has been made and approved. Section 21.99 of this chapter applies to operations under this section.

(j) Each person operating a provisionally certificated civil aircraft—

(1) May carry in that aircraft only persons who have a proper interest in the operations allowed by this section or who are specifically authorized by both the manufacturer and the Administrator; and

(2) Shall advise each person carried that the aircraft is provisionally certificated.

(k) The Administrator may prescribe additional limitations or procedures that he considers necessary, including limitations on the number of persons who may be carried in the aircraft.

**§ 91.319 Aircraft having experimental certificates: Operating limitations.**

(a) No person may operate an aircraft that has an experimental certificate—

(1) For other than the purpose for which the certificate was issued; or

(2) Carrying persons or property for compensation or hire.

(b) No person may operate an aircraft that has an experimental certificate outside of an area assigned by the Administrator until it is shown that—

(1) The aircraft is controllable throughout its normal range of speeds and throughout all the maneuvers to be executed; and

(2) The aircraft has no hazardous operating characteristics or design features.

(c) Unless otherwise authorized by the Administrator in special operating limitations, no person may operate an aircraft that has an experimental certificate over a densely populated area or in a congested airway. The Administrator may issue special operating limitations for particular aircraft to permit takeoffs and landings to be conducted over a densely populated area or in a congested airway in accordance with terms and conditions specified in the authorization in the interest of safety in air commerce.

(d) Each person operating an aircraft that has an experimental certificate shall—

(1) Advise each person carried of the experimental nature of the aircraft;

(2) Operate under VFR, day only, unless otherwise specifically authorized by the Administrator; and

(3) Notify the control tower of the experimental nature of the aircraft when operating the aircraft into or out of airports with operating control towers.

(e) The Administrator may prescribe additional limitations that he considers necessary, including limitations on the persons that may be carried in the aircraft.

**§ 91.321 Carriage of candidates in Federal elections.**

(a) An aircraft operator, other than one operating an aircraft under the rules of Part 121, 125, 127, or 135 of this chapter, may receive payment for the carriage of a candidate in a Federal election, an agent of the candidate, or a person traveling on behalf of the candidate, if—

(1) That operator's primary business is not as an air carrier or commercial operator;

(2) The carriage is conducted under the rules of Part 91; and

(3) The payment for the carriage is required, and does not exceed the amount required to be paid, by regulations of the Federal Election Commission (11 CFR et seq.).

(b) For the purposes of this section, the terms "candidate" and "election" have the same meaning as that set forth in the regulations of the Federal Election Commission.

**§§ 91.323-91.399 [Reserved]**

## Subpart E—Maintenance, Preventive Maintenance, and Alterations

**§ 91.401 Applicability.**

(a) This subpart prescribes rules governing the maintenance, preventive maintenance, and alterations of U.S.-registered civil aircraft operating within or without the United States.

(b) Sections 91.405, 91.409, 91.411, 91.413, 91.417, and 91.419 of this subpart do not apply to an aircraft maintained in accordance with a continuous airworthiness maintenance program as provided in Part 121, 127, or 135 of this chapter.

(c) Sections 91.405, 91.409, 91.411, and Subpart F of this part do not apply to an airplane inspected in accordance with Part 125 of this chapter.

**§ 91.403 General.**

(a) The owner or operator of an aircraft is primarily responsible for maintaining that aircraft in an airworthy condition, including compliance with Part 39 of this chapter.

(b) No person may perform maintenance, preventive maintenance, or alterations on an aircraft other than as prescribed in this subpart and other applicable regulations, including Part 43.

(c) No person may operate an aircraft for which a manufacturer's maintenance manual or instructions for continued airworthiness has been issued that contains an airworthiness limitations section unless the mandatory replacement times, inspection intervals, and related procedures specified in that section or alternative inspection intervals and related procedures set forth in an operations specification approved by the Administrator under Part 121, 123, 127, or 135 or in accordance with an inspection program approved under § 91.537(e) have been complied with.

**§ 91.405 Maintenance required.**

Each owner or operator of an aircraft shall have that aircraft inspected as prescribed in Subpart F or § 91.409 of this part, as appropriate, and § 91.413 of this part and shall, between required inspections, have defects repaired as prescribed in Part 43 of this chapter. In addition, each owner or operator shall ensure that maintenance personnel make appropriate entries in the maintenance records indicating that the aircraft has been approved for return to service.

**§ 91.407 Carrying persons other than crewmembers after repairs or alterations.**

(a) No person may carry any persons (other than crewmembers) in an aircraft that has been repaired or altered in a manner that may have appreciably changed its flight characteristics or substantially affected its operation in flight until it has been approved for return to service in accordance with Part 43 and an appropriately rated pilot, with at least a private pilot's certificate, flies the aircraft, makes an operational check of the repaired or altered part, and logs the flight in the aircraft's records.

(b) Paragraph (a) of this section does not require that the aircraft be flown if ground tests or inspections, or both, show conclusively that the repair or alteration has not appreciably changed the flight characteristics of substantially affected the flight operation of the aircraft.

**§ 91.409 Inspections.**

(a) Except as provided in paragraph (c) of this section, no person may operate an aircraft unless, within the preceding 12 calendar months, it has had—

(1) An annual inspection in accordance with Part 43 of this chapter and has been approved for return to service by a person authorized by § 43.7 of this chapter; or

(2) An inspection for the issuance of an airworthiness certificate.

No inspection performed under paragraph (b) of this section may be substituted for any inspection required by this paragraph unless it is performed by a person authorized to perform annual inspections and is entered as an "annual" inspection in the required maintenance records.

(b) Except as provided in paragraph (c) of this section, no person may operate an aircraft carrying any person (other than a crewmember) for hire, and no person may give flight instruction for hire in an aircraft which that person provides, unless with the preceding 100 hours of time in service it has received an annual or 100-hour inspection and been approved for return to service in accordance with Part 43 of this chapter, or received an inspection for the issuance of an airworthiness certificate in accordance with Part 21 of this chapter. The 100-hour limitation may be exceeded by not more than 10 hours if necessary to reach a place at which the inspection can be done. The excess time, however, is included in computing the next 100 hours of time in service.

(c) Paragraphs (a) and (b) of this section do not apply to——

(1) Any aircraft for which its registered owner or operator complies with the progressive inspection requirements of § 91.411 and Part 43 of this chapter;

(2) Any aircraft that carries a special flight permit or a current experimental or provisional certificate;

(3) Any airplane operated by an air travel club that is inspected in accordance with Part 123 of this chapter and the operator's manual and operations specifications;

(4) An aircraft inspected in accordance with an approved aircraft inspection program under Part 135 of this chapter and so identified by the registration number in the operations specifications of the certificate holder having the approved inspection program; or

(5) Any large airplane or a turbojet or turbopropeller-powered multiengine airplane that is inspected in accordance with an inspection program authorized under Subpart F of this part.

**§ 91.411 Progressive inspection.**

(a) Each registered owner or operator of an aircraft desiring to use the progressive inspection must submit a written request to the Flight Standards district office having jurisdiction over the area in which the applicant is located and shall provide—

(1) A certificated mechanic holding an inspection authorization, a certificated airframe repair station, or the manufacturer of the aircraft to supervise or conduct the progressive inspection;

(2) A current inspection procedures manual available and readily understandable to pilot and maintenance personnel containing, in detail—

(i) An explanation of the progressive inspection, including the continuity of inspection responsibility, the making of reports, and the keeping of records and technical reference material;

(ii) An inspection schedule specifying the intervals in hours or days when routine and detailed inspections will be performed and including instructions for exceeding an inspection interval by not more than 10 hours while en route and for changing an inspection interval because of service experience;

(iii) Sample routine and detailed inspection forms and instructions for their use; and

(iv) Sample reports and records and instructions for their use;

(3) Enough housing and equipment for necessary disassembly and proper inspection of the aircraft; and

(4) Appropriate current technical information for the aircraft.

(b) The frequency and detail of the progressive inspection shall provide for the complete inspection of the aircraft within each 12 calendar months and be consistent with the manufacturer's recommendations, field service experience, and the kind of operation in which the aircraft is engaged. The progressive inspection schedule must ensure that the aircraft at all times will be airworthy and will conform to all applicable FAA aircraft specifications, type certificate data sheets, airworthiness directives, and other approved data.

(c) If the progressive inspection is discontinued, the owner or operator shall notify immediately the local General Aviation District Office, in writing, of the discontinuance. After the discontinuance, the first annual inspection under § 91.409(a) is due within 12 calendar months after the last complete inspection of the aircraft under the progressive inspection. The 100-hour inspection under § 91.409(b) is due within 100 hours after that complete inspection. A complete inspection of the aircraft, for the purpose of determining when the annual and 100-hour inspections are due, will require a detailed inspection of the aircraft and all its components in accordance with the progressive inspection. A routine inspection of the aircraft and a detailed inspection of several components is not considered to be a complete inspection.

**§ 91.413 Altimeter system tests and inspections.**

(a) No person may operate an airplane in controlled airspace under IFR unless, within the preceding 24 calendar months, each static pressure system and each altimeter instrument has been tested and inspected and found to comply with Appendix E of Part 43. The static pressure system and altimeter instrument tests and inspections may be conducted by—

(1) The manufacturer of the airplane on which the tests and inspections are to be performed;

(2) A certificated repair station properly equipped to perform these functions and holding—

(i) An instrument rating, Class I;

(ii) A limited instrument rating appropriate to the make and model altimeter to be tested;

(iii) A limited rating appropriate to the test to be performed;

(iv) An airframe rating appropriate to the airplane to be tested; or

(v) A limited rating for a manufacturer issued for the altimeter in accordance with § 145.101(b)(4) of this chapter; or

(3) A certificated mechanic with an airframe rating (static pressure system tests and inspections only).

(b) No person may operate an airplane in controlled airspace under IFR at an altitude above the maximum altitude to which an altimeter of that airplane has been tested.

**§ 91.415 ATC transponder tests and inspections.**

(a) No person may use an ATC transponder that is specified in §§ 91.211(a), 121.345(c), 127.123(b), or 135.143(c) of this chapter, unless, within the preceding 24 calendar months, that ATC transponder has been tested and inspected and found to comply with Appendix F of Part 43 of this chapter.

(b) The tests and inspections specified in paragraph (a) of this section may be conducted by—

(1) A certificated repair station properly equipped to perform those functions and holding—

(i) A radio rating, Class III;

(ii) A limited radio rating appropriate to the make and model transponder to be tested;

(iii) A limited rating appropriate to the test to be performed; or

(iv) A limited rating for a manufacturer issued for the transponder in accordance with § 145.101(b)(4) of this chapter; or

(2) A certificate holder authorized to perform maintenance in accordance with § 121.379 or § 127.140 of this chapter; or

(3) The manufacturer of the aircraft on which the transponder to be tested is installed, if the transponder was installed by that manufacturer.

**§ 91.417 Maintenance records.**

(a) Except for work performed in accordance with §§ 91.413 and 91.415, each registered owner or operator shall keep the following records for the periods specified in paragraph (b) of this section:

(1) Records of the maintenance and alteration and records of the 100-hour, annual, progressive, and other required or approved inspections, as appropriate, for each aircraft (including the airframe) and each engine, propeller, rotor, and appliance of an aircraft. The records must include—

(i) A description (or reference to data acceptable to the Administrator) of the work performed;

(ii) The date of completion of the work performed; and

(iii) The signature and certificate number of the person approving the aircraft for return to service.

(2) Records containing the following information:

(i) The total time in service of the airframe, each engine, and each propeller.

(ii) The current status of life-limited parts of each airframe, engine, propeller, rotor, and appliance.

(iii) The time since last overhaul of all items installed on the aircraft which are required to be overhauled on a specified time basis.

(iv) The identification of the current inspection status of the aircraft, including the times since the last inspections required by the inspection program under which the aircraft and its appliances are maintained.

(v) The current status of applicable airworthiness directives (AD) including, for each, the method of compliance, the AD number, and revision date. If the AD involves recurring action, the time and date when the next action is required.

(vi) A list of current major alterations to each airframe, engine, propeller, rotor, and appliance.

(b) The owner and operator shall retain the following records for the periods prescribed:

(1) The records specified in paragraph (a)(1) of this section shall be retained until the work is repeated or superseded by other work or for 1 year after work is performed.

(2) The records specified in paragraph (a)(2) of this section shall be retained and transferred with the aircraft at the time the aircraft is sold.

(3) A list of defects furnished to a registered owner or operator under § 43.9 of this chapter shall be retained until the defects are repaired and the aircraft is approved for return to service.

(c) The owner or operator shall make all maintenance records required to be kept by this section available for inspection by the Administrator or any authorized representative of the National Transportation Safety Board (NTSB).

**§ 91.419 Transfer of maintenance records.**

Any owner or operator who sells a U.S.-registered aircraft shall transfer to the purchaser, at the time of sale, the following records of that aircraft, in plain language form or in coded form at the election of the purchaser, if the coded form provides for the preservation and retrieval of information in a manner acceptable to the Administrator:

(a) The records specified in § 91.417(a)(2).

(b) The records specified in § 91.417(a)(1) which are not included in the records covered by paragraph (a) of this section, except that the purchaser may permit the seller to keep physical custody of such records. However, custody of records by the seller does not relieve the purchaser of his responsibility under § 91.417(c) to make the records available for inspection by the Administrator or any authorized representative of the National Transportation Safety Board (NTSB).

**§ 91.421 Rebuilt engine maintenance records.**

(a) The owner or operator may use a new maintenance record, without previous operating history, for an aircraft engine rebuilt by the manufacturer or by an agency approved by the manufacturer.

(b) Each manufacturer or agency that grants zero time to an engine rebuilt by it shall enter in the new record—

(1) A signed statement of the date the engine was rebuilt;

(2) Each change made as required by airworthiness directives; and

(3) Each change made in compliance with manufacturer's service bulletins, if the entry is specifically requested in that bulletin.

(c) For the purposes of this section, a rebuilt engine is a used engine that has been completely disassembled, inspected, repaired as necessary, reassembled, tested, and approved in the same manner and to the same tolerances and limits as a new engine with either new or used parts. However, all parts used in it must conform to the production drawing tolerances and limits for new parts or be of approved oversized or undersized dimensions for a new engine.

**§§ 91.423-91.499 [Reserved].**

## SUBPART F—LARGE AND TURBINE-POWERED MULTIENGINE AIRPLANES

**§ 91.501 Applicability.**

(a) Sections 91.501 through 91.535 prescribe operating rules, in addition to those prescribed in other subparts of this part, governing the operation of large and of turbojet-powered multiengine civil airplanes of U.S. registry. The operating rules in this subpart do not apply to those airplanes when they are required to be operated under part 121, 123, 125, 129, 135, or 137 of this chapter. Sections 91.537 and 91.539 prescribe an inspection program for large and for turbine-powered (turbojet and turboprop) multiengine airplanes of U.S. registry when they are operated under this subpart or Part 129 or 137 and for small turbine-powered multiengine airplanes operated under Part 135 of this chapter.

(b) Operations that may be conducted under the rules in this subpart instead of those in Parts 121, 123, 125, 129, 135, and 137 when common carriage is not involved include—

(1) Ferry or training flights;

(2) Aerial work operations such as aerial photography or survey, or pipeline patrol, but not including firefighting operations;

(3) Flights for the demonstration of an airplane to prospective customers when no charge is made except for those specified in paragraph (d) of this section;

(4) Flights conducted by the operator of an airplane for his personal transportation or the transportation of his guests when no charge, assessment, or fee is made for the transportation;

(5) The carriage of officials, employees, guests, and property of a company on an airplane operated by that company, or the parent or a subsidiary of that company or a subsidiary of the parent, when the carriage is within the scope of, and incidental to, the business of the company (other than transportation by air) and no charge, assessment, or fee is made for the carriage in excess of the cost of owning, operating, and maintaining the airplane, except that no charge of any kind may be made for the carriage of a guest of a company when the carriage is not within the scope of, and incidental to, the business of that company;

(6) The carriage of company officials, employees, and guests of the company on an airplane operated under a time-sharing, interchange, or joint ownership agreement as defined in paragraph (c) of this section;

(7) The carriage of property (other than mail) on an airplane operated by a person in the furtherance of a business or employment (other than transportation by air) when the carriage is within the scope of, and incidental to, that business or employment and no charge, assessment, or fee is made for the carriage other than those specified in paragraph (d) of this section;

(8) The carriage on an airplane of an athletic team, sports group, choral group, or similar group having a common purpose or objective when there is no charge, assessment, or fee of any kind made by any person for that carriage; and

(9) The carriage of persons on an airplane operated by a person in the furtherance of a business other than transportation by air for the purpose of selling to them land, goods, or property, including franchises or distributorships, when the carriage is within the scope of, and incidental to, that business and no charge, assessment, or fee is made for that carriage.

(c) As used in this section—

(1) A "time-sharing agreement" means an arrangement whereby a person leases his airplane with a flightcrew to another person and no charge is made for the flights conducted under that arrangement other than those specified in paragraph (d) of this section;

(2) An "interchange agreement" means an arrangement whereby a person leases his airplane to another person in exchange for equal time, when needed, on the other person's airplane and no charge, assessment, or fee is made, except that a charge may be made not to exceed the difference between the cost of owning, operating, and maintaining the two airplanes; and

(3) A "joint ownership agreement" means an arrangement whereby one of the registered joint owners of an airplane employs and furnishes the flightcrew for that airplane and each of the registered joint owners pays a share of the charges specified in the agreement.

(d) The following may be charged, as expenses of a specific flight, for transportation as authorized by subparagraphs (b)(3) and (7) and (c)(1) of this section:

(1) Fuel, oil, lubricants, and other additives.

(2) Travel expenses of the crew, including food, lodging, and ground transportation.

(3) Hangar and tie-down costs away from the aircraft's base of operations.

(4) Insurance obtained for the specific flight.

(5) Landing fees, airport taxes, and similar assessments.

(6) Customs, foreign permit, and similar fees directly related to the flight.

(7) In-flight food and beverages.

(8) Passenger ground transportation.

(9) Flight planning and weather contract services.

(10) An additional charge equal to 100 percent of the expenses listed in paragraph (d)(1) of this section.

**§ 91.503 Flying equipment and operating information.**

(a) The pilot in command of an airplane shall ensure that the following flying equipment and aeronautical charts and data, in current and appropriate form, are accessible for each flight at the pilot station of the airplane:

(1) A flashlight having at least two size "D" cells, or the equivalent, that is in good working order.

(2) A cockpit checklist containing the procedures required by paragraph (b) of this section.

(3) Pertinent aeronautical charts.

(4) For IFR, VFR over-the-top, or night operations, each pertinent navigational en route, terminal area, and approach and letdown chart.

(5) In the case of multiengine airplanes, one-engine inoperative climb performance data.

(b) Each cockpit checklist must contain the following procedures and shall be used by the flight crewmembers when operating the airplane:

(1) Before starting engines.

(2) Before takeoff.

(3) Cruise.

(4) Before landing.

(5) After landing.

(6) Stopping engines.

(7) Emergencies.

(c) Each emergency cockpit checklist procedure required by paragraph (b)(7) of this section must contain the following procedures, as appropriate:

(1) Emergency operation of fuel, hydraulic, electrical, and mechanical systems.

(2) Emergency operation of instruments and controls.

(3) Engine inoperative procedures.

(4) Any other procedures necessary for safety.

(d) The equipment, charts, and data prescribed in this section shall be used by the pilot in command and other members of the flightcrew, when pertinent.

**§ 91.505 Familiarity with operating limitations and emergency equipment.**

(a) Each pilot in command of an airplane shall, before beginning a flight, familiarize himself with the airplane flight manual for that airplane, if one is required, and with any placards, listings, instrument markings, or any combination thereof, containing each operating limitation prescribed for that airplane by the Administrator, including those specified in § 91.9(b).

(b) Each required member of the crew shall, before beginning a flight, familiarize himself with the emergency equipment installed on the airplane to which he is assigned and with the procedures to be followed for the use of that equipment in an emergency situation.

**§ 91.507 Equipment requirements: Over-the-top or night VFR operations.**

No operson may operate an airplane over-the-top or at night under VFR unless that airplane is equipped with the instruments and equipment required for IFR operations under § 91.205(d) and one electric landing light for night operations. Each required instrument and item of equipment must be in operable condition.

**§ 91.509 Survival equipment for overwater operations.**

(a) No person may take off an airplane for a flight over water more

than 50 nautical miles from the nearest shoreline unless that airplane is equipped with a life preserver or an approved flotation means for each occupant of the airplane.

(b) No person may take off an airplane for a flight over water more than 30 minutes flying time or 100 nautical miles from the nearest shoreline, unless it has on board the following survival equipment:

(1) A life preserver, equipped with an approved survivor locator light, for each occupant of the airplane.

(2) Enough liferafts (each equipped with an approved survival locator light) of a rated capacity and buoyancy to accommodate the occupants of the airplane.

(3) At least one pyrotechnic signaling device for each liferaft.

(4) One self-buoyant, water-resistant, portable emergency radio signaling device that is capable of transmission on the appropriate emergency frequency or frequencies and not dependent upon the airplane power supply.

(5) A lifeline stored in accordance with § 25.1411(g) of this chapter.

(c) The required liferafts, life preservers, and signaling devices must be installed in conspicuously marked locations and easily accessible in the event of a ditching without appreciable time for preparatory procedures.

(d) A survival kit, appropriately equipped for the route to be flown, must be attached to each required liferaft.

**§ 91.511 Radio equipment for overwater operations.**

(a) Except as provided in paragraphs (c) and (d) of this section, no person may take off an airplane for a flight over water more than 30 minutes flying time or 100 nautical miles from the nearest shoreline unless it has at least the following operable radio communication and navigational equipment appropriate to the facilities to be used and able to transmit to, and receive from, at any place on the route, at least one surface facility:

(1) Two transmitters.

(2) Two microphones.

(3) Two headsets or one headset and one speaker.

(4) Two independent receivers for navigation.

(5) Two independent receivers for communications.

However, a receiver that can receive both communications and navigational signals may be used in place of a separate communications receiver and a separate navigational signal receiver.

(b) For the purpose of paragraphs (a)(4) and (5) of this section, a receiver is independent if the function of any part of it does not depend on the functioning of any part of another receiver.

(c) Notwithstanding the provisions of paragraph (a) of this section, a person may operate an airplane on which no passengers are carried from a place where repairs or replacement cannot be made to a place where they can be made, if not more than one of each of the dual items of radio communication and navigational equipment specified in subparagraphs (1) through (5) of paragraph (a) of this section malfunctions or becomes inoperative.

(d) Notwithstanding the provisions of paragraph (a) of this section, when both VHR and HF communications equipment are required for the route and the airplane has two VHF transmitters and two VHF receivers for communications, only one HF transmitter and one HF receiver is required for communications.

**§ 91.513 Emergency equipment.**

(a) No person may operate an airplane unless it is equipped with the emergency equipment listed in this section.

(b) Each item of equipment—

(1) Must be inspected in accordance with § 91.537 to ensure its continued serviceability and immediate readiness for its intended purposes;

(2) Must be readily accessible to the crew;

(3) Must clearly indicate its method of operation; and

(4) When carried in a compartment or container, must have that compartment or container marked as to contents and date of last inspection.

(c) Hand fire extinguishers must be provided for use in crew, passenger, and cargo compartments in accordance with the following:

(1) The type and quantity of extinguishing agent must be suitable for the kinds of fires likely to occur in the compartment where the extinguisher is intended to be used.

(2) At least one hand fire extinguisher must be provided and located on or near the flight deck in a place that is readily accessible to the flightcrew.

(3) At least one hand fire extinguisher must be conveniently located in the passenger compartment of each airplane accommodating more than 6 but less than 31 passengers, and at least two hand fire extinguishers must be conveniently located in the passenger compartment of each airplane accommodating more than 30 passengers.

(4) Hand fire extinguishers must be installed and secured in such a manner that they will not interfere with the safe operation of the airplane of adversely affect the safety of the crew and passengers. They must be readily accessible and, unless the locations of the fire extinguishers are obvious, their stowage provisions must be properly identified.

(d) First aid kits for treatment of injuries likely to occur in flight or in minor accidents must be provided.

(e) Each airplane accommodating more than 19 passengers must be equipped with a crash axe.

(f) Each passenger-carrying airplane must have a portable battery-powered megaphone or megaphones readily accessible to the crewmembers assigned to direct emergency evacuation, installed as follows:

(1) One megaphone on each airplane with a seating capacity of more than 60 but less than 100 passengers, at the most rearward location in the passenger cabin where it would be readily accessible to a normal flight attendant seat. However, the Administrator may grant a deviation from the requirements of this subparagraph if he finds that a different location would be more useful for evacuation of persons during an emergency.

(2) Two megaphones in the passenger cabin on each airplane with a seating capacity of more than 99 passengers, one installed at the forward end and the other at the most rearward location where it would be readily accessible to a normal flight attendant seat.

**§ 91.515 Flight altitude rules.**

(a) Notwithstanding § 91.119, and except as provided in paragraph (b) of this section, no person may operate an airplane under VFR at less than—

(1) One thousand feet above the surface, or 1,000 feet from any mountain, hill, or other obstruction to flight, for day operations; and

(2) The altitudes prescribed in § 91.177, for night operations.

(b) This section does not apply—

(1) During takeoff or landing;

(2) When a different altitude is authorized by a waiver to this section under Subpart I of this part; or

(3) When a flight is conducted under the special VFR weather minimums of § 91.157 with an appropriate clearance from ATC.

**§ 91.517 Smoking and safety belt signs.**

(a) Except as provided in paragraph (b) of this section, no person may operate an airplane carrying passengers unless it is equipped with signs that are visible to passengers and cabin attendants to notify them when smoking is prohibited and when safety belts should be fastened. The signs must be so constructed that the crew can turn them

on and off. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

(b) The pilot in command of an airplane that is not equipped as provided in paragraph (a) of this section shall ensure that the passengers are orally notified each time that it is ecessary to fasten their safety belts nd when smoking is prohibited.

**91.519 Passenger briefing.**

(a) Before each takeoff the pilot in ommand of an airplane carrying assengers shall ensure that all assengers have been orally briefed n—

(1) Smoking;

(2) Use of safety belts;

(3) Location and means for opening ie passenger entry door and emergency xits;

(4) Location of survival equipment;

(5) Ditching procedures and the use of lotation equipment required under 91.509 for a flight over water; and

(6) The normal and emergency use of xygen equipment installed on the irplane.

(b) The oral briefing required by aragraph (a) of this section shall be iven by the pilot in command or a iember of the crew, but need not be iven when the pilot in command etermines that the passengers are amiliar with the contents of the riefing. It may be supplemented by rinted cards for the use of each assenger containing—

(1) A diagram of, and methods of perating, the emergency exits; and

(2) Other instructions necessary for se of emergency equipment.

Each card used under this paragraph ust be carried in convenient locations n the airplane for the use of each assenger and must contain information hat is pertinent only to the type and iodel airplane on which it is used.

**91.521 Shoulder harness.**

(a) Except as provided in paragraph b) of this section, no person may perate a transport category airplane nless it is equipped with a combined afety belt and shoulder harness that neets the applicable requirements pecified in § 25.785 of this chapter at ach required flight attendant seat in the assenger compartment and at each light deck station, except that—

(1) Shoulder harnesses and combined afety belt and shoulder harnesses that vere approved and installed before March 6, 1980, may continue to be used; ind

(2) Safety belt and shoulder harness estraint systems may be designed to the inertia load factors established under the certification basis of the airplane.

(b) An operator may obtain an extension of the compliance date specified in paragraph (a) of this section, but not beyond March 6, 1982, from the Director of Flight Operations if the operator—

(1) Shows that, due to circumstances beyond its control, it cannot comply by the specified compliance date; and

(2) Submits, by the specified compliance date, a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

**§ 91.523 Carry-on baggage.**

No pilot in command of an airplane having a seating capacity of more than 19 passengers may permit a passenger to stow his baggage aboard that airplane except—

(a) In a suitable baggage or cargo storage compartment, or as provided in § 91.525; or

(b) Under a passenger seat in such a way that it will not slide forward under crash impacts severe enough to induce the ultimate inertia forces specifed in § 25.561(b)(3) of this chapter, or the requirements of the regulations under which the airplane was type certificated. Restraining devices must also limit sideward motion of under-seat baggage and be designed to withstand crash impacts severe enough to induce sideward forces specified in § 25.561(b)(3) of this chapter.

**§ 91.525 Carriage of cargo.**

(a) No pilot in command may permit cargo to be carried in any airplane unless—

(1) It is carried in an approved cargo rack, bin, or compartment installed in the airplane;

(2) It is secured by means approved by the Administrator; or

(3) It is carried in accordance with each of the following:

(i) It is properly secured by a safety belt or other tiedown having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions.

(ii) It is packaged or covered to avoid possible injury to passengers.

(iii) It does not impose any load on seats or on the floor structure that exceeds the load limitation for those components.

(iv) It is not located in a position that restricts the access to or use of any required emergency or regular exit, or the use of the aisle between the crew and the passenger compartment.

(v) It is not carried directly above seated passengers.

(b) When cargo is carried in cargo compartments that are designed to require the physical entry of a crewmember to extinguish any fire that may occur during flight, the cargo must be loaded so as to allow a crewmember to effectively reach all parts of the compartment with the contents of a hand fire extinguisher.

**§ 91.527 Transport category airplane weight limitations.**

No person may take off a transport category airplane except in accordance with the weight limitations prescribed for that airplane in § 91.603 of this part.

**§ 91.529 Operating in icing conditions.**

(a) No pilot may take off an airplane that has—

(1) Frost, snow, or ice adhering to any propeller, windshield, or powerplant installation or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing or control surfaces; or

(3) Any frost adhering to the wings, or stabilizing or control surfaces, unless that frost has been polished to make it smooth.

(b) Except for an airplane that has ice protection provisions that meet the requirements in section 34 of Special Federal Aviation Regulation No. 23, or those for transport category airplane type certification, no pilot may fly—

(1) Under IFR into known or forecast moderate icing conditions; or

(2) Under VFR into known light or moderate icing conditions unless the aircraft has functioning de-icing or anti-icing equipment protecting each propeller, windshield, wing, stabilizing or control surface, and each airspeed, altimeter, rate of climb, or flight attitude instrument system.

(c) Except for an airplane that has ice protection provisions that meet the requirements in section 34 of Special Federal Aviation Regulation No. 23, or those for transport category airplane type certification, no pilot may fly an airplane into known or forecast severe icing conditions.

(d) If current weather reports and briefing information relied upon by the pilot in command indicate that the forecast icing conditions that would otherwise prohibit the flight will not be encountered during the flight because of changed weather conditions since the forecast, the restrictions in paragraph (b) and (c) of this section based on forecast conditions do not apply.

§ 91.531 Flight engineer requirements.

(a) No person may operate the following airplanes without a flight crewmember holding a current flight engineer certificate:

(1) An airplane for which a type certificate was issued before January 2, 1964, having a maximum certificated takeoff weight or more than 80,000 pounds.

(2) An airplane type certificated after January 1, 1964, for which a flight engineer is required by the type certification requirements.

(b) No person may serve as a required flight engineer on an airplane unless, within the preceding 6 calendar months, he has had at least 50 hours of flight time as a flight engineer on that type airplane, or the Administrator has checked him on that type airplane and determined that he is familiar and competent with all essential current information and operating procedures.

§ 91.533 Second-in-command requirements.

(a) Except as provided in paragraph (b) of this section, no person may operate the following airplanes without a pilot who is designated as second in command of that airplane:

(1) A large airplane.

(2) A turbojet-powered multiengine airplane for which two pilots are required under the type certification requirements for that airplane.

(b) The Administrator may issue a letter of authorization for the operation of an airplane without compliance with the requirements of paragraph (a) of this section if that airplane is designed for and type certificated with only one pilot station. The authorization contains any conditions that the Administrator finds necessary for safe operation.

(c) No person may designate a pilot to serve as second in command, nor may any pilot serve as second in command, of an airplane required under this section to have two pilots unless that pilot meets the qualifications for second in command prescribed in § 61.55 of this chapter.

§ 91.535 Flight attendant requirements.

(a) No person may operate an airplane unless at least the following number of flight attendants are on board the airplane:

(1) For airplanes having more than 19 but less than 51 passengers on board, one flight attendant.

(2) For airplanes having more than 50 but less than 101 passengers on board, two flight attendants.

(3) For airplanes having more than 100 passengers on board, two flight attendants plus one additional flight attendant for each unit (or part of a unit) of 50 passengers above 100.

(b) No person may serve as a flight attendant on an airplane when required by paragraph (a) of this section unless that person has demonstrated to the pilot in command that he is familiar with the necessary functions to be performed in an emergency or a situation requiring emergency evacuation and is capable of using the emergency equipment installed on that airplane for the performance of those functions.

§ 91.537 Inspection program.

(a) No person may operate a large airplane or a turbojet or turbopropeller-powered multiengine airplane unless the replacement times for life-limited parts specified in the aircraft data sheets or other documents approved by the Administrator are complied with, and the airplane, including the airframe, engines, propellers, appliances, survival equipment, and emergency equipment, is inspected in accordance with an inspection program selected under the provisions of this section.

(b) The registered owner or operator of each airplane governed by this subpart must select and must use one of the following programs for the inspection of that airplane:

(1) A continuous airworthiness inspection program that is a part of a continuous airworthiness maintenance program currently in use by a person holding an air carrier or commercial operator certificate under Part 121 of this chapter.

(2) An approved aircraft inspection program currently in use by a person holding an ATCO certificate under Part 135 of this chapter.

(3) An approved continuous inspection program currently in use by a person certificated as an Air Travel Club under Part 123 of this chapter.

(4) A current inspection program recommended by the manufacturer.

(5) Any other inspection program established by the registered owner or operator of that airplane and approved by the Administrator under paragraph (e) of this section.

(c) Notice of the inspection program selected shall be sent to the local FAA district office having jurisdiction over the area in which the airplane is based. The notice must be in writing and include—

(1) Make, model, and serial number of the airplane;

(2) Registration number of the airplane;

(3) The inspection program selected under paragraph (b) of this section; and

(4) The name and address of the person responsible for scheduling the inspections required under the selected inspection program.

(d) The registered owner or operator may not change the inspection program for an airplane unless he has given notice thereof as provided in paragraph (c) of this section and the new program has been approved by the FAA, where appropriate.

(e) Each registered owner or operator of an airplane desiring to establish an approved inspection program under paragraph (b)(5) of this section must submit the program for approval to the local FAA district office having jurisdiction over the area in which the airplane is based. The program must include the following information:

(1) Instructions and procedures for the conduct of inspections for the particular make and model airplane, including necessary tests and checks. The instructions and procedures must set forth in detail the parts and areas of the airframe, engines, propellers, and appliances, including emergency equipment, required to be inspected.

(2) A schedule for the performance of the inspections that must be performed under the program expressed in terms of the time in service, calendar time, number of system operations, or any combination of these.

§ 91.539 Availability of inspection program.

Each owner or operator of an airplane shall make a copy of the inspection program selected under § 91.537 available to—

(a) The person responsible for the scheduling of the inspections;

(b) Any person performing inspections on the airplane; and

(c) Upon request, to the Administrator.

§§ 91.541-91.599 [Reserved].

## Subpart G—Additional Equipment and Operating Requirements for Large and Transport Category Aircraft

§ 91.601 Applicability.

This subpart prescribes equipment and operating rule requirements, in addition to those prescribed in other subparts of this part and other parts governing the operation of large transport category aircraft.

§ 91.603 Aural speed warning device.

No person may operate a transport category airplane in air commerce unless that airplane is equipped with an aural speed warning device that complies with § 25.1303(c)(1).

**§ 91.605 Transport category civil airplane weight limitations.**

(a) No person may take off any transport category airplane (other than a turbine-engine-powered airplane certificated after September 30, 1958) unless—

(1) The takeoff weight does not exceed the authorized maximum takeoff weight for the elevation of the airport of takeoff;

(2) The elevation of the airport of takeoff is within the altitude range for which maximum takeoff weights have been determined;

(3) Normal consumption of fuel and oil in flight to the airport of intended landing will leave a weight on arrival not in excess of the authorized maximum landing weight for the elevation of that airport; and

(4) The elevations of the airport of intended landing and of all specified alternate airports are within the altitude range for which the maximum landing weights have been determined.

(b) No person may operate a turbine-engine-powered transport category airplane certificated after September 30, 1958, contrary to the airplane flight manual, nor take off that airplane unless—

(1) The takeoff weight does not exceed the takeoff weight specified in the airplane flight manual for the elevation of the airport and for the ambient temperature existing at the time of takeoff;

(2) Normal consumption of fuel and oil in flight to the airport of intended landing and to the alternate airports will leave a weight on arrival not in excess of the landing weight specified in the airplane flight manual for the elevation of each of the airports involved and for the ambient temperatures expected at the time of landing;

(3) The takeoff weight does not exceed the weight shown in the airplane flight manual to correspond with the minimum distances required for takeoff considering the elevation of the airport, the runway to be used, the effective runway gradient, and the ambient temperature and wind component existing at the time of takeoff; and

(4) Where the takeoff distance includes a clearway, the clearway distance is not greater than one-half of—

(i) The takeoff run, in the case of airplanes certificated after September 30, 1958, and before August 30, 1959; or

(ii) The runway length, in the case of airplanes certificated after August 29, 1959.

(c) No person may take off a turbine-engine-powered transport category airplane certificated after August 29, 1959, unless, in addition to the requirements of paragraph (b) of this section—

(1) The accelerate-stop distance is no greater than the length of the runway plus the length of the stopway (if present);

(2) The takeoff distance is no greater than the length of the runway plus the length of the clearway (if present); and

(3) The takeoff run is no greater than the length of the runway.

**§ 91.607 Transport category airplanes—Pitot heat indication systems.**

(a) Except as provided in paragraphs (b) and (c) of this section, after April 12, 1981, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326 of this chapter in effect on April 12, 1978.

(b) An operator may obtain an extension of the April 12, 1981, compliance date specified in paragraph (a) of this section, but not beyond April 12, 1983, from the Director of Flight Operations if the operator—

(1) Shows that due to circumstances beyond its control it cannot comply by the specified compliance date; and

(2) Submits, by the specified compliance date, a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

(c) Notwithstanding the provisions of paragraph (a) of this section, the compliance date of April 12, 1981, is suspended for operators of transport category airplanes when conducting operations that are not conducted under Part 121, 123, 125, or 135 of the Federal Aviation Regulations.

**§ 91.609 Emergency exits for airplanes carrying passengers for hire.**

(a) Notwithstanding any other provision of this chapter, no person may operate a large airplane (type certificated under the Civil Air Regulations effective before April 9, 1957) in passenger-carrying operations for hire, with more than the number of occupants—

(1) Allowed under Civil Air Regulations § 4b.362(a), (b), and (c) as in effect on December 20, 1951; or

(2) Approved under Special Civil Air Regulations SR-387, SR-389, SR-389A, or SR-389B, or under this section as in effect.

However, an airplane type listed in the following table may be operated with up to the listed number of occupants (including crewmembers) and the corresponding number of exits (including emergency exits and doors) approved for the emergency exit of passengers or with an occupant-exit configuration approved under paragraph (b) or (c) of this section.

| Airplane type | Maximum number of occupants including all crewmembers | Corresponding number of exits authorized for passenger use |
|---|---|---|
| B-307 | 61 | 4 |
| B-377 | 96 | 9 |
| C-46 | 67 | 4 |
| CV-240 | 53 | 6 |
| CV-340 and CV-440 | 53 | 6 |
| DC-3 | 35 | 4 |
| DC-3 (Super) | 39 | 5 |
| DC-4 | 86 | 5 |
| DC-6 | 87 | 7 |
| DC-6B | 112 | 11 |
| L-18 | 17 | 3 |
| L-049, L-649, L-749 | 87 | 7 |
| L-1049 series | 96 | 9 |
| M-202 | 53 | 6 |
| M-404 | 53 | 7 |
| Viscount 700 series | 53 | 7 |

(b) Occupants in addition to those authorized under paragraph (a) of this section may be carried as follows:

(1) For each additional floor-level exit at least 24 inches wide by 48 inches high, with an unobstructed 20-inch wide access aisleway between the exit and the main passenger aisle, 12 additional occupants.

(2) For each additional window exit located over a wing that meets the requirements of the airworthiness standards under which the airplane was type certificated or that is large enough to inscribe an ellipse 19 x 26 inches, 8 additional occupants.

(3) For each additional window exit that is not located over a wing but that otherwise complies with subparagraph (2) of this paragraph, 5 additional occupants.

(4) For each airplane having a ratio (as computed from the table in paragraph (a) of this section) of maximum number of occupants to number of exits greater than 14:1, and for each airplane that does not have at least one full-size, door-type exit in the side of the fuselage in the rear part of the cabin, the first additional exit must be a floor-level exit that complies with subparagraph (1) of this paragraph and must be located in the rear part of the cabin on the opposite side of the fuselage from the main entrance door.

However, no person may operate an airplane under this section carrying more than 115 occupants unless there is such an exit on each side of the fuselage in the rear part of the cabin.

(c) No person may eliminate any approved exit except in accordance with the following:

(1) The previously authorized maximum number of occupants must be reduced by the same number of additional occupants authorized for that exit under this section.

(2) Exits must be eliminated in accordance with the following priority schedule: First, non-over-wing window exits; second, over-wing-window exits; third, floor-level exits located in the forward part of the cabin; and fourth, floor-level exits located in the rear of the cabin.

(3) At least one exit must be retained on each side of the fuselage regardless of the number of occupants.

(4) No person may remove any exit that would result in a ratio of maximum number of occupants to approved exits greater than 14:1.

(d) This section does not relieve any person operating under Part 121 of this chapter from complying with § 121.291.

**§ 91.611 Flight recorders and cockpit voice recorders.**

No holder of an air carrier or commercial operator certificate may conduct any operation under this part with an aircraft listed in his operations specifications or current list of aircraft used in air transportation unless that aircraft complies with any applicable flight recorder and cockpit voice recorder requirements of the part under which its certificate is issued, except that he may—

(a) Ferry an aircraft with an inoperative flight recorder or cockpit voice recorder from a place where repair or replacement cannot be made to a place where they can be made;

(b) Continue a flight as originally planned, if the flight recorder or cockpit voice recorder becomes inoperative after the aircraft has taken off;

(c) Conduct an airworthiness flight test during which the flight recorder or cockpit voice recorder is turned off to test it or to test any communications or electrical equipment installed in the aircraft; or

(d) Ferry a newly acquired aircraft from the place where possession of it was taken to a place where the flight recorder or cockpit voice recorder is to be installed.

**§ 91.613 Authorization for ferry flight with one engine inoperative by air carriers and commercial operators of large aircraft.**

(a) *General.* An air carrier or commercial operator of large aircraft may conduct a ferry flight of a four-engine airplane or a turbine-engine-powered airplane equipped with three engines, with one engine inoperative, to a base for the purpose of repairing that engine subject to the following:

(1) The airplane model has been test flown and found satisfactory for safe flight in accordance with paragraph (b) or (c) of this section, as appropriate. However, each operator who before November 19, 1966, has shown that a model of airplane with an engine inoperative is satisfactory for safe flight by a test flight conducted in accordance with performance data contained in the applicable airplane flight manual under § 91.613(a)(2) need not repeat the test flight for that model.

(2) The approved airplane flight manual contains the following performance data and the flight is conducted in accordance with that data:

(i) Maximum weight.

(ii) Center of gravity limits.

(iii) Configuration of the inoperative propeller (if applicable).

(iv) Runway length for takeoff (including temperature accountability).

(v) Altitude range.

(vi) Certificate limitations.

(vii) Ranges of operational limits.

(viii) Performance information.

(ix) Operating procedures.

(3) The operator's manual contains operating procedures for the safe operation of the airplne, including specific requirements for—

(i) A limitation that the operating weight on any ferry flight must be the minimum necessary therefore with the necessary reserve fuel load;

(ii) A limitation that takeoffs must be made from dry runways unless, based on a showing of actual operating takeoff techniques on wet runways with one engine inoperative, takeoffs with full controllability from wet runways have been approved for the specific model aircraft and included in the airplane flight manual;

(iii) Operations from airports where the runways may require a takeoff or approach over populated areas; and

(iv) Inspection procedures for determining the operating conditions of the operative engines.

(4) No person may take off an airplane under this section if—

(i) The initial climb is over thickly populated areas; or

(ii) Weather conditions at the takeoff or destination airport are less than those required for VFR flight.

(5) No air carrier or commercial operator of large aircraft may carry any persons other than required flight crewmembers on board the airplane during the flight.

(6) No air carrier or commercial operator of large aircraft may use a flight crewmember unless he is thoroughly familiar with the operating procedures for one-engine-inoperative ferry flights listed in its manual and the limitations and performance information listed in the airplane flight manual.

(b) *Flight tests: reciprocating-engine-powered airplanes.* The airplane performance of a reciprocating-engine-powered airplane with one engine inoperative must be determined by flight test as follows:

(1) A speed not less than $1.3V_{s1}$ must be chosen at which the airplane may be controlled satisfactorily in a climb with the critical engine inoperative (with its propeller removed or in a configuration desired by the operator) and with all other engines operating at the maximum power determined in paragraph (b)(3) of this section.

(2) The distance required to accelerate to the speed listed in subparagraph (1) of this paragraph and to climb to 50 feet must be determined with—

(i) The landing gear extended;

(ii) The critical engine inoperative and its propeller removed or in a configuration desired by the operator; and

(iii) The other engines operating at not more than the maximum power established under paragraph (b)(3) of this section.

(3) The takeoff, flight, and landing procedures, such as the approximate trim settings, method of power application, maximum power, and speed, must be established.

(4) The performance must be determined at a maximum weight not greater than the weight that allows a rate of climb of at least 400 feet a minute in the enroute configuration set forth in § 25.67(d) of this chapter at an altitude of 5,000 feet.

(5) The performance must be determined using temperature accountability for the takeoff field length, computed in accordance with § 25.61 of this chapter.

(c) *Flight test: turbine-engine-powered airplanes.* The airplane performance of a turbine-engine-powered airplane with one engine inoperative must be determined by flight tests, including at least three takeoff tests, in accordance with the following:

(1) Takeoff speeds $V_R$ and $V_2$, not less than the corresponding speeds under which the airplane was type certificated under § 25.107 of this chapter, must be chosen at which the airplane may be controlled satisfactorily with the critical engine inoperative (with its propeller removed or in a configuration desired by the operator, if applicable) and with all other engines operating at not more than

the power selected for type certification, as set forth in § 25.101 of this chapter.

(2) The minimum takeoff field length must be the horizontal distance required to accelerate and climb to the 35-foot height at $V_2$ speed (including any additional speed increment obtained in the tests) multiplied by 115 percent and determined with—

(i) The landing gear extended;

(ii) The critical engine inoperative and its propeller removed or in a configuration desired by the operator (if applicable); and

(iii) The other engines operating at not more than the power selected for type certification as set forth in § 25.101 of this chapter.

(3) The takeoff, flight, and landing procedures such as the approximate trim settings, method of power application, maximum power, and speed must be established. The airplane must be satisfactorily controllable during the entire takeoff run when operated according to these procedures.

(4) The performance must be determined at a maximum weight not greater than the weight determined under § 25.121(c) of this chapter but with—

(i) The actual steady gradient of the final takeoff climb requirement not less than 1.2 percent at the end of the takeoff path with two critical engines inoperative; and

(ii) The climb speed not less than the two-engine-inoperative trim speed for the actual steady gradient of the final takeoff climb prescribed by paragraph (c)(4)(i) of this section.

(5) The airplane must be satisfactorily controllable in a climb with two critical engines inoperative. Climb performance may be shown by calculations based on, and equal in accuracy to, the results of testing.

(6) The performance must be determined using temperature accountability for takeoff distance and final takeoff climb computed in accordance with § 25.101 of this chapter.

For the purposes of paragraphs (c) (4) and (5) of this section, "two critical engines" means two adjacent engines on one side of an airplane with four engines, and the center engine and one outboard engine on an airplane with three engines.

**§ 91.615 Materials for compartment interiors.**

No person may operate an airplane that conforms to an amended or supplemental type certificate issued in accordance with SFAR No. 41 for a maximum certificated takeoff weight in excess of 12,500 pounds unless within 1 year after issuance of the initial airworthiness certificate under that SFAR the airplane meets the compartment interior requirements set forth in § 25.853(a), (b), (b–1), (b–2), and (b–3) of this chapter in effect on September 26, 1978.

**§§ 91.617–91.619 [Reserved]**

## Subpart H—Foreign Aircraft Operations and Operations of U.S.-Registered Civil Aircraft to Areas Outside of the Conterminous United States

**§ 91.701 Applicability.**

This subpart contains additional rules applicable to the operations of civil aircraft of U.S. registry to areas outside of the conterminous United States, and the operations of foreign civil aircraft within the United States.

**§ 91.703 Operations of civil aircraft of U.S. registry outside of the United States.**

(a) Each person operating a civil aircraft of U.S. registry outside of the United States shall—

(1) When over the high seas, comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation and with §§ 91.117(c) and 91.133;

(2) When within a foreign country, comply with the regulations relating to the flight and maneuver of aircraft there in force;

(3) Except for §§ 91.307(b), 91.309. 91.707, and 91.713, comply with this part so far as it is not inconsistent with applicable regulations of the foreign country where the aircraft is operated or Annex 2 to the Convention on International Civil Aviation; and

(4) When over the North Atlantic within airspace designated as Minimum Navigation Performance Specifications airspace, comply with § 91.705.

(b) Annex 2 to the Convention on International Civil Aviation, Sixth Edition—September 1970, with amendments through Amendment 20 effective August 1976, to which reference is made in this part is incorporated into this part and made a part hereof as provided in 5 U.S.C. 552 and pursuant to 1 CFR Part 51. Annex 2 (including a complete historic file of changes thereto) is available for public inspection at the Rules Docket, AGC–204, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. In addition, Annex 2 may be purchased from the International Civil Aviation Organization (Attention: Distribution Officer), P.O. Box 400, Succursale, Place de L'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada #H3A SR2.

**§ 91.705 Operations within the North Atlantic Minimum Navigation Performance Specifications Airspace**

No person may operate a civil aircraft of U.S. registry in North Atlantic (NAT) airspace designate as Minimum Navigation Performance Specifications (MNPS) airspace unless that aircraft has approved navigation performance capability which complies with the requirements of Appendix C of this part. The Administrator authorizes deviations from the requirements of this section in accordance with Section 3 of Appendix C to this part.

**§ 91.707 Increased maximum certificated weights for certain airplanes operated in Alaska.**

(a) Notwithstanding any other provision of the Federal Aviation Regulations, the Administrator will approve, as provided in this section, an increase in the maximum certificated weight of an airplane type certificated under Aeronautics Bulletin No. 7–A of the U.S. Department of Commerce dated January 1, 1931, as amended, or under the normal category of Part 4a of the former Civil Air Regulations (14 CFR 4A, 1964 ed.) if that airplane is operated in the State of Alaska by—

(1) An air taxi operator or other air carrier; or

(2) The U.S. Department of Interior in conducting its game and fish law enforcement activities or its management, fire detection, and fire suppression activities concerning public lands.

(b) The maximum certificated weight approved under this section may not exceed—

(1) 12,500 pounds;

(2) 115 percent of the maximum weight listed in the FAA aircraft specifications;

(3) The weight at which the airplane meets the positive maneuvering load factor requirement for the normal category specified in § 23.337 of this chapter; or

(4) The weight at which the airplane meets the climb performance requirements under which it was type certificated.

(c) In determining the maximum certificated weight, the Administrator considers the structural soundness of the airplane and the terrain to be traversed.

(d) The maximum certificated weight determined under this section is added to the airplane's operation limitations and is identified as the maximum weight authorized for operations within the State of Alaska.

**§ 91.709 Flights between Mexico or Canada and the United States.**

Unless otherwise authorized by ATC, no person may operate a civil aircraft between Mexico or Canada and the United States without filing an IFR or VFR flight plan, as appropriate.

**§ 91.711 Operations to Cuba.**

No person may operate a civil aircraft from the United States to Cuba unless—

(a) Departure is from an international airport of entry designated in § 6.13 of the Air Commerce Regulations of the Bureau of Customs (19 CFR 6.13); and

(b) In the case of departure from any of the 48 conterminous states or the District of Columbia, the pilot in command of the aircraft has filed—

(1) A DVFR or IFR flight plan as prescribed in § 99.11 or § 99.13 of this chapter; and

(2) A written statement, within 1 hour before departure, with the Office of Immigration and Naturalization Service at the airport of departure, containing—

(i) All information in the flight plan;

(ii) The name of each occupant of the aircraft;

(iii) The number of occupants of the aircraft; and

(iv) A description of the cargo, if any.

This section does not apply to the operation of aircraft by a scheduled air carrier over routes authorized in operations specifications issued by the Administrator.

**§ 91.713 Special rules for foreign civil aircraft.**

(a) *General.* In addition to the other applicable regulations of this part, each person operating a foreign civil aircraft within the United States shall comply with this section.

(b) *VFR.* No person may conduct VFR operations which require two-way radio communications under this part unless at least one crewmember of that aircraft is able to conduct two-way radio communications in the English language and is on duty during that operation.

(c) *IFR.* No person may operate a foreign civil aircraft under IFR unless—

(1) That aircraft is equipped with—

(i) Radio equipment allowing two-way radio communications with ATC when it is operated in a control zone or control area; and

(ii) Radio navigational equipment appropriate to the navigational facilities to be used;

(2) Each person piloting the aircraft—

(i) Holds a current United States instrument rating or is authorized by his foreign airman certificate to pilot under IFR; and

(ii) Is thoroughly familiar with the United States en route, holding, and letdown procedures; and

(3) At least one crewmember of that aircraft is able to conduct two-way radiotelephone communications in the English language and that crewmember is on duty while the aircraft is approaching, operating within, or leaving the United States.

(d) *Overwater.* Each person operating a foreign civil aircraft over water off the shores of the United States shall give flight notification or file a flight plan in accordance with the Supplementary Procedures for the ICAO region concerned.

(e) *Flight at and above 24,000 feet MSL.* If VOR navigational equipment is required under paragraph (c)(1)(ii) of this section, no person may operate a foreign civil aircraft within the 50 states and the District of Columbia at or above 24,000 feet MSL, unless the aircraft is equipped with distance measuring equipment (MDE) capable of receiving and indicating distance information from the VORTAC facilities to be used. When DME required by this paragraph fails at and above 24,000 feet MSL, the pilot in command of the aircraft shall notify ATC immediately, and may then continue operations at and above 24,000 feet MSL to the next airport of intended landing at which repairs or replacement of the equipment can be made.

However, paragraph (e) does not apply to foreign civil aircraft that are not equipped with DME when operated for the following purposes, and if ATC is notified prior to each takeoff:

(1) Ferry flights to and from a place in the United State where repairs or alterations are to be made.

(2) Ferry flight to a new country of registry.

(3) Flight of a new aircraft of U.S. manufacture for the purpose of—

(i) Flight testing the aircraft;

(ii) Training foreign flightcrews in the operation of the aircraft; or

(iii) Ferrying the aircraft for export delivery outside the United States.

(4) Ferry, demonstration, and test flights of an aircraft brought to the United States for the purpose of demonstration or testing the whole or any part thereof.

**§ 91.715 Operation of civil aircraft of Cuban registry.**

No person may operate a civil aircraft of Cuban registry except in controlled airspace and in accordance with air traffic clearances or air traffic control instructions that may require use of specific airways or routes and landings at specific airports.

**§ 91.717 Special flight authorizations for foreign civil aircraft.**

(a) Foreign civil aircraft may be operated without the airworthiness certificate required under § 91.203 if a special flight authorization for that operation is issued under this section. Application for a special flight authorization must be made to the Regional Director of the FAA region in which the applicant is located. However, application for a special flight authorization for the purpose specified in paragraph (b)(6) of this section must be made to the Regional Director of the FAA region in which the airshow is located.

(b) The Administrator may issue a special flight authorization for a foreign civil aircraft, subject to any conditions and limitations that he considers necessary for safe operation, for any of the following purposes:.

(1) The flight of an aircraft to a place where repairs or alterations are to be made, if the country of registry determines that the aircraft has been damaged to the extent that the airworthiness certificate is invalid.

(2) The flight of an aircraft to a new country of registry, if the airworthiness certificate has been invalidated by the country of registry due to change in nationality.

(3) The flight of an aircraft of U.S. manufacture for flight testing or giving training in the operation of the aircraft to the buyer or his employees or designees, or for the purpose of ferrying the aircraft to make an export delivery outside of the United States whenever title to the aircraft has passed to a foreign buyer and there is no airworthiness certificate for it.

(4) The flight of an aircraft for any purpose stated in paragraph (b)(3) of this section, in the case of a foreign civil aircraft brought to the United States for alterations which invalidate its airworthiness certificate.

(5) The flight of a foreign civil aircraft brought to the United States for the purpose of demonstration in connection with market sales or surveys or for testing the whole or any part thereof. However, for market sales or surveys, the applicant must show at least that—

(i) The applicant is the manufacturer of the aircraft;.

(ii) The applicant has applied for a U.S. type certificate or U.S. supplemental type certificate;.

(iii) The aircraft has flown for 50 hours, or for at least 5 hours if it is a U.S. type certificated aircraft which has been modified;

(iv) The applicant has established operating limitations in an appropriate

document and certifies that the aircraft will be operated within such limitations; and.

(v) The applicant has established an inspection and maintenance program for the continued airworthiness of the aircraft.

(6) The flight of a Canadian-registered amateur-built experimental aircraft brought to the United States for the purpose of demonstration at an airshow within the United States.

(c) An aircraft of U.S. manufacture may be operated for the purposes stated in paragraph (b)(3) of this section even though no registration certificate has been issued by the country of the foreign buyer, if the aircraft bears identification markings issued by the country of registry or intended registry.

§§ 91.719-91.799 [Reserved]

## Subpart I—Operating Noise Limits

### 91.801 Applicability: Relation to Part 36.

(a) This subpart prescribes operating noise limits and related requirements that apply, as follows, to the operation of civil aircraft in the United States:

(1) Sections 91.803, 91.805, 91.807, 91.809, and 91.811 apply to civil subsonic turbojet airplanes with maximum weights of more than 75,000 pounds and—

(i) If U.S. registered, that have standard airworthiness certificates; or

(ii) If foreign registered, that would be required by this chapter to have a U.S. standard airworthiness certificate in order to conduct the operations intended for the airplane were it registered in the United States. Those sections apply to operations to or from airports in the United States under this part and Parts 121, 123, 125, 129, and 135 of this chapter.

(2) Section 91.813 applies to U.S. operators of civil subsonic turbojet airplanes covered by this subpart. That section applies to operators operating to or from airports in the United States under this part and Parts 121, 123, 125, and 135, but not to those operating under Part 129 of this chapter..

(3) Sections 91.819 and 91.821 apply to U.S.-registered civil supersonic airplanes having standard airworthiness certificates and to foreign-registered civil supersonic airplanes that, if registered in the United States, would be required by this chapter to have U.S. standard airworthiness certificates in order to conduct the operations intended for the airplane. Those sections apply to operations under this part and under Parts 121, 123, 125, 129, and 135 of this chapter.

(b) Unless otherwise specified, as used in this subpart "Part 36" refers to 14 CFR Part 36, including the noise levels under Appendix C of that part, notwithstanding the provisions of that part excepting certain airplanes from the specified noise requirements. For purposes of this subpart, the various stages of noise levels, the terms used to describe airplanes with respect to those levels, and the terms "subsonic airplane" and "supersonic airplane" have the meaning specified under Part 36 of this chapter. For purposes of this subpart, for subsonic airplanes operated in foreign air commerce in the United States, the Administrator may accept compliance with the noise requirements under Annex 16 of the International Civil Aviation Organization when those requirements have been shown to be substantially compatible with, and achieve results equivalent to those achievable under, Part 36 for that airplane. Determinations made under these provisions are subject to the limitations of § 36.5 of this chapter as if those noise levels were Part 36 noise levels.

### § 91.803 Part 125 operators: Designation of applicable regulations.

For airplanes covered by this subpart and operated under Part 125, the following regulations apply as specified:

(a) For each airplane operation to which requirements prescribed under this subpart applied before November 1, 1980, those requirements of this subpart continue to apply

(b) For each subsonic airplane operation to which requirements prescribed under this subpart did not apply before November 1, 1980, because the airplane was not operated in the United States under this part or Part 121, 123, 129, or 135, the requirements prescribed under §§ 91.805, 91.809, 91.811, and 91.813 of this subpart apply.

(c) For each supersonic airplane operation to which requirements prescribed under this subpart did not apply before November 1, 1980, because the airplane was not operated in the United States under this part or part 121, 123, 129, or 135, the requirements of §§ 91.819 and 91.821 of this subpart apply.

(d) For each airplane required to operate, under Part 125 for which a deviation under that part is approved to operate, in whole or in part, under this part or Part 121, 123, 129, or 135, notwithstanding the approval, the requirements prescribed under paragraphs (a), (b), and (c) of this section continue to apply.

### § 91.805 Final compliance: Subsonic airplanes.

Except as provided in §§ 91.809 and 91.811, on and after January 1, 1985, no person may operate to or from an airport in the United States any subsonic airplane covered by this subpart unless that airplane has been shown to comply with Stage 2 or Stage 3 noise levels under Part 36 of this chapter.

### § 91.807 Phased compliance under Parts 121, 125, and 135: Subsonic airplanes.

(a) *General.* Each person operating airplanes under Part 121, 125, or 135 of this chapter, as prescribed under § 91.803 of this subpart, regardless of the state of registry of the airplane, shall comply with this section with respect to subsonic airplanes covered by this subpart.

(b) *Compliance schedule.* Except for airplanes shown to be operated in foreign air commerce under paragraph (c) of this section or covered by an exemption (including those issued under § 91.811), airplanes operated by U.S. operators in air commerce in the United States must be shown to comply with Stage 2 or Stage 3 noise levels under Part 36, in accordance with the following schedule, or they may not be operated to or from airports in the United States:

(1) By January 1, 1981—

(i) At least one quarter of the airplanes that have four engines with no bypass ratio or with a bypass ratio less than two; and

(ii) At least half of the airplanes powered by engines with any other bypass ratio or by another number of engines.

(2) By January 1, 1983—

(i) At least one half of the airplanes that have four engines with no bypass ratio or with a bypass ratio less than two; and

(ii) All airplanes powered by engines with any other bypass ratio or by another number of engines.

(c) *Apportionment of airplanes.* For purposes of paragraph (b) of this section, a person operating airplanes engaged in domestic and foreign air commerce in the United States may elect not to comply with the phased schedule with respect to that portion of the airplanes operated by that person shown, under an approved method of apportionment, to be engaged in foreign air commerce in the United States.

### § 91.809 Replacement airplanes.

A Stage 1 airplane may be operated after the otherwise applicable compliance dates prescribed under §§ 91.805 and 91.807 if, under an approved plan, a replacement airplane

has been ordered by the operator under a binding contract as follows:

(a) For replacement of an airplane powered by two engines, until January 1, 1986, but not after the date specified in the plan, if the contract is entered into by January 1, 1983, and specifis delivery before January 1, 1986, of a replacement airplane which has been shown to comply with Stage 3 noise levels under Part 36 of this chapter.

(b) For replacement of an airplane powered by three engines, until January 1, 1985, but not after the date specified in the plan, if the contract is entered into by January 1, 1983, and specifies delivery before January 1, 1985, of a replacement airplane which has been shown to comply with Stage 3 noise levels under Part 36 of this chapter.

(c) For replacement of any other airplane, until January 1, 1985, but not after the date specified in the plan, if the contract specifies delivery before January 1, 1985, of a replacement airplane which—

(1) Has been shown to comply with Stage 2 or Stage 3 noise levels under Part 36 of this chapter prior to issuance of an original standard airworthiness certificate; or

(2) Has been shown to comply with Stage 3 noise levels under Part 36 of this chapter prior to issuance of a standard airworthiness certificate other than original issue.

(d) Each operator of a Stage 1 airplane for which approval of a replacement plan is requested under this section shall submit to the Director, Office of Environment and Energy, an application constituting the proposed replacement plan (or revised plan) that contains the information specified under this paragraph and which is certified (under penalty of 18 U.S.C. § 1001) as true and correct. Each application for approval must provide information corresponding to that specified in the contract, upon which the FAA may rely in considering its approval, as follows:

(1) Name and address of the applicant.

(2) Aircraft type and model and registration number for each airplane to be replaced under the plan.

(3) Aircraft type and model of each replacement airplane.

(4) Scheduled dates of delivery and introduction into service of each replacement airplane.

(5) Name and addresses of the parties to the contract and any other persons who may effectively cancel the contract or otherwise control the performance of any party.

(6) Information specifying the anticipated disposition of the airplanes to be replaced.

(7) A statement that the contract represents a legally enforceable, mutual agreement for delivery of an eligible replacement airplane.

(8) Any other information or documentation requested by the Director, Office of Environment and Energy, reasonably necessary to determine whether the plan should be approved.

**§ 91.811 Service to small communities exemption: Two-engine, subsonic airplanes.**

(a) A Stage 1 airplane powered by two engines may be operated after the compliance dates prescribed under §§ 91.805, 91.807, and 91.809 when, with respect to that airplane, the Administrator issues an exemption to the operator from the noise level requirements under this subpart. Each exemption issued under this section terminates on the earliest of the following dates:

(1) For an exempted airplane sold, or otherwise disposed of, to another person on or after January 1, 1983, on the date of delivery to that person.

(2) For an exempted airplane with a seating configuration of 100 passenger seats or less, on January 1, 1988.

(3) For an exempted airplane with a seating configuration of more than 100 passenger seats, on January 1, 1985.

(b) For the purposes of this section, the seating configuration of an airplane is governed by that shown to exist on December 1, 1979, or an earlier date established for that airplane by the Administrator.

**§ 91.813 Compliance plans and status: U.S. operators of subsonic airplanes.**

(a) Each U.S. operator of a civil subsonic airplane covered by this subpart (regardless of the state of registry) shall submit to the Director, Office of Environment and Energy, in accordance with this section, the operator's current compliance status and plan for achieving and maintaining compliance with the applicable noise level requirements of this subpart. If appropriate, an operator may substitute for the required plan a notice, certified as true (under penalty of 18 U.S.C. 1001) by that operator, that no change in the plan or status of any airplane affected by the plan has occurred since the date of the plan most recently submitted under this section.

(b) Each compliance plan, including each revised plan, must contain the information specified under paragraph (c) of this section for each airplane covered by this section that is operated by the operator. Unless otherwise approved by the Administrator, compliance plans must provide the required plan and status information as it exists on the date 30 days before the date specified for submission of the plan. Plans must be certified by the operator as true and complete (under penalty of 18 U.S.C. § 1001) and be submitted for each airplane covered by this section on or before 90 days after initially commencing operation of airplanes covered by this section, whichever is later, and thereafter—

(1) Thirty days after any change in the operator's fleet or compliance planning decisions that has a separate or cumulative effect on 10 percent or more of the airplanes in either class of airplanes covered by § 91.807(b); and

(2) Thirty days after each compliance date applicable to that airplane under this subpart, and annually thereafter through 1985, or until any later date for that airplane prescribed under this subpart, on the anniversary of that submission date, to show continuous compliance with this subpart.

(c) Each compliance plan submitted under this section must identify the operator and include information regarding the compliance plan and status for each airplane covered by the plan as follows:

(1) Name and address of the airplane operator.

(2) Name and telephone number of the person designated by the operator to be responsible for the preparation of the compliance plan and its submission.

(3) The total number of airplanes covered by this section and in each of the following classes and subclasses:

(i) For airplanes engaged in domestic air commerce—

(A) Airplanes powered by four turbojet engines with no bypass ratio or with a bypass ratio less than two;

(B) Airplanes powered by engines with any other bypass ratio or by another number of engines; and

(C) Airplanes covered by an exemption issued under § 91.811 of this subpart.

(ii) For airplanes engaged in foreign air commerce under an approved apportionment plan—

(A) Airplanes powered by four turbojet engines with no bypass ratio or with a bypass ratio less than two;

(B) Airplanes powered by engines with any other bypass ratio or by another number of engines; and

(C) Airplanes covered by an exemption issued under § 91.811 of this subpart.

(4) For each airplane covered by this section—

(i) Aircraft type and model;

(ii) Aircraft registration number;

(iii) Aircraft manufacturer serial number;

(iv) Aircraft powerplant make and model;

(v) Aircraft year of manufacturer;

(vi) Whether Part 36 noise level compliance has been shown, "Yes/No";

(vii) The appropriate code prescribed under paragraph (c)(5) of this section which indicates the acoustical technology installed or to be installed on the airplane;

(viii) For airplanes on which acoustical technology has been or will be applied, following the appropriate code entry, the actual or scheduled month and year of installation on the airplane;

(ix) For DC-8 and B-707 airplanes operated in domestic U.S. air commerce which have been or will be retired from service in the United States without replacement between January 24, 1977, and January 1, 1985, the appropriate code prescribed under paragraph (c)(5) of this section followed by the actual or scheduled month and year of retirement of the airplane from service;

(x) For DC-8 and B-707 airplanes operated in foreign air commerce in the United States which have been or will be retired from service in the United States without replacement between April 14, 1980, and January 1, 1985, the appropriate code prescribed under paragraph (c)(5) of this section followed by the actual or scheduled month and year of retirement of the airplane from service;

(xi) For airplanes covered by an approved replacement plan under § 91.807(c) of this subpart, the appropriate code prescribed under paragraph (c)(5) of this section followed by the scheduled month and year for replacement of the airplane;

(xii) For airplanes designated as "engaged in foreign commerce" in accordance with an approved method of apportionment under § 91.807(c) of this subpart, the appropriate code prescribed under paragraph (c)(5) of this section;

(xiii) For airplanes covered by an exemption issued to the operator granting relief from noise requirements of this subpart, the appropriate code prescribed under paragraph (c)(5) of this section followed by the actual or scheduled month and year of expiration of the exemption and the appropriate code and applicable dates which indicate the compliance strategy planned or implemented for the airplane;

(xiv) For all airplanes covered by this section, the number of spare shipsets of acoustical components needed for continuous compliance and the number available on demand to the operator in support of those airplanes; and

(xv) For airplanes for which none of the other codes prescribed under paragraph (c)(5) of this section describes either the technology applied or to be applied to the airplane in accordance with the certification requirements under Parts 21 and 36 of this chapter, or the compliance strategy or methodology, following the code "OTH," enter the date of any certificate action and attach an addendum to the plan explaining the nature and extent of the certificated technology, strategy, or methodology employed, with reference to the type certificate documentation.

**(5) Table of Acoustical Technology/ Strategy Codes**

| Code | Airplane type/ model | Certificated technology |
|---|---|---|
| A | B-707-120B<br>B-707-320B/C<br>B-720B | Quiet Nacelles+1-Ring. |
| B | B-727-100 | Double Wall Fan Duct Treatment. |
| C | B-727-200 | Double Wall Fan Duct Treatment (Pre-January Installations and Amended Type Certificate). |
| D | B-727-200<br>B-737-100<br>B-737-200 | Quiet Nacelles+Double Wall Fan Duct Treatment. |
| E | B-747-100 (pre-December 1971).<br>B-747-200 (pre-December 1971). | Fixed Lip Inlets+Sound Absorbing Material Treatment. |
| F | DC-8 | New Extended Inlet and Bullet with Treatment+Fan Duct Treatment Areas. |
| G | DC-9 | P-36 Sound Absorbing Material Treatment Kit. |
| H | BAC-111-200 | Silencer Kit (BAC Acoustic Report 522). |
| I | BAC-111-400 | (To be identified later if certificated). |
| J | B-707<br>DC-8 | Reengined with High Bypass Ratio Turbojet Engines + Quiet Nacelles (if certificated under Stage 3 noise level requirements). |

REP—For Airplanes covered by an approved replacement under § 94.807(c) of this subpart.

EFC—For airplanes designated as "engaged in foreign commerce" in accordance with an approved method of apportionment under § 91.811 of this subpart.

RET—For DC-8 and B-707 airplanes operated in domestic U.S. air commerce and retired from service in the United States without replacement between January 24, 1977, and January 1, 1985.

RFC—For DC-8 and B-707 airplanes operated by U.S. operators in foreign air commerce in the United States and retired from service in the United States without replacement between April 14, 1980, and January 1, 1985.

EXD—For airplanes exempted from showing compliance with the noise level requirements of this subpart.

OTH—For airplanes for which no other prescribed code describes either the certificated technology applied or to be applied to the airplane, or the compliance strategy or methodology. (An addendum must explain the nature and extent of technology, strategy, or methodology and reference the type certificate documentation.)

**§ 91.815 Agricultural and fire-fighting airplanes: Noise operating limitations.**

(a) This section applies to propeller-driven, small airplanes having standard airworthiness certificates that are designed for "agricultural aircraft operations" (as defined in § 137.3 of this chapter, as effective on January 1, 1966) or for dispensing fire-fighting materials.

(b) If the airplane flight manual, or other approved manual material, information, markings, or placards for the airplane indicate that the airplane has not been shown to comply with the noise limits under Part 36 of this chapter, no person may operate that airplane, except—

(1) To the extent necessary to accomplish the work activity directly associated with the purpose for which it is designed;

(2) To provide flight crewmember training in the special purpose operation for which the airplane is designed; and

(3) To conduct "nondispensing aerial work operations" in accordance with the requirements under § 137.29(c) of this chapter.

**§ 91.817 Civil aircraft sonic boom.**

(a) No person may operate a civil aircraft in the United States at a true flight Mach number greater than 1 except in compliance with conditions and limitations in an authorization to exceed Mach 1 issued to the operator under Appendix B of this part.

(b) In addition, no person may operate a civil aircraft for which the maximum operating limit speed $M_{mo}$ exceeds a Mach number of 1, to or from an airport in the United States unless—

(1) Information available to the flightcrew includes flight limitations that ensure that flights entering or leaving the United States will not cause a sonic boom to reach the surface within the United States; and

(2) The operator complies with the flight limitations prescribed in paragraph (b)(1) of this section or complies with conditions and limitations in an authorization to exceed Mach 1 issued under Appendix B of this part.

**§ 91.819 Civil supersonic airplanes that do not comply with Part 36.**

(a) *Applicability.* This section applies to civil supersonic airplanes that have not been shown to comply with the Stage 2 noise limits of Part 36 in effect on October 13, 1977, using applicable tradeoff provisions, and that are

operated in the United States after July 31, 1978.

(b) *Airport use.* Except in an emergency, the following apply to each person who operates a civil supersonic airplane to or from an airport in the United States:

(1) Regardless of whether a type design change approval is applied for under Part 21 of this chapter, no person may land or take off an airplane covered by this section for which the type design is changed, after July 31, 1978, in a manner constituting an "acoustical change" under § 21.98 unless the acoustical change requirements of Part 36 are complied with.

(2) No flight may be scheduled, or otherwise planned, for takeoff or landing after 10 p.m. and before 7 a.m. local time.

**§ 91.821 Civil supersonic airplanes: Noise limits.**

Except for Concorde airplanes having flight time before January 1, 1980, no person may operate in the United States, a civil supersonic airplane that does not comply with Stage 2 noise limits of Part 36 in effect on October 13, 1977, using applicable tradeoff provisions.

**§§ 91.823-91.899 [Reserved]**

## SUBPART J— WAIVERS

**§ 91.901 Applicability.**

This subpart outlines the Administrator's policy and procedures concerning the issuance of waivers to this part and also lists by number those rules that may be waived.

**§ 91.903 Policy and procedures.**

(a) The Administrator may issue a certificate of waiver authorizing the operation of aircraft in deviation from any rule listed in this subpart if he finds that the proposed operation can be safely conducted under the terms of that certificate of waiver.

(b) An application for a certificate of waiver under this part is made on a form and in a manner prescribed by the Administrator and may be submitted to any FAA office.

(c) A certificate of waiver is effective as specified in that certificate of waiver.

**§ 91.905 List of rules subject to waiver.**

Sec.
91.107 Use of safety belts.
91.111 Operating near other aircraft.
91.113 Right-of-way rules: Except water operations.
91.115 Right-of-way rules: Water operation.
91.117 Aircraft speed.
91.119 Minimum safe altitudes: General.
91.121 Altimeter settings.
91.123 Compliance with ATC clearances and instructions.
91.125 ATC Light Signals.
91.127 Operating on or in the vicinity of an airport: General rules.
91.129 Operation at airports without control towers.
91.131 Operation at airports with operating control towers.
91.133 Terminal control areas.
91.135 Restricted and prohibited areas.
91.137 Positive control areas and route segments.
91.139 Temporary flight restrictions.
91.143 Flight restrictions in the proximity of the Presidential and other parties.
91.145 Flight limitation in the proximity of space flight recovery operations.
91.151 VFR flight plan: Information required.
91.155 Basic VFR weather minimums.
91.157 Special VFR weather minimums.
91.159 VFR cruising altitude or flight level.
91.169 IFR flight plan: Information required.
91.173 ATC clearance and flight plan required.
91.175 Takeoff and landing under IFR.
91.177 Minimum altitudes for IFR operations.
91.179 IFR cruising or flight level.
91.181 Course to be flown.
91.183 IFR radio communications.
91.185 IFR operations: Two-way radio communication failure.
91.187 Operation under IFR in controlled airspace: Malfunction reports.
91.209 Aircraft lights.
91.303 Acrobatic flight.
91.305 Flight test areas.
91.311 Towing: Other than under § 91.309.
91.313(d) Restricted category civil aircraft: Operating limitations.
91.705 Operations within the North Atlantic Minimum Navigation Performance Specifications Airspace.
91.709 Flights between Mexico or Canada and the United States.
91.711 Operations to Cuba.
91.715 Operation of civil aircraft of Cuban registry.

Appendix A—Category II Operations: Manual, Instruments, Equipment, and Maintenance

1. *Category II manual.*

(a) *Application for approval.* An applicant for approval of a Category II manual or an amendment to an approved Category II manual must submit the proposed manual or amendment to the general aviation district office having jurisdiction of the area in which the applicant is located. If the application requests an evaluation program, it must include the following:

(1) The location of the airplane and the place where the demonstrations are to be conducted; and

(2) The date the demonstrations are to commence (at least 10 days after filing the application).

(b) *Contents.* Each Category II manual must contain:

(1) The registration number, make, and model of the airplane to which it applies;

(2) A maintenance program as specified in § 4 of this Appendix; and

(3) The procedures and instructions related to recognition of decision height, use of runway visual range information, approach monitoring, the decision region (the region between the middle marker and the decision height), the maximum permissible deviations of the basic ILS indicator within the decision region, a missed approach, use of airborne low approach equipment, minimum altitude for the use of the autopilot, instrument and equipment failure warning systems, instrument failure, and other procedures, instructions, and limitations that may be found necessary by the Administrator.

2. *Required instruments and equipment.*

The instruments and equipment listed in this section must be installed in each airplane operated in a Category II operation. This section does not require duplication of instruments and equipment required by § 91.205 or any other provisions of this chapter.

(a) *Group I.*

(1) Two localizer and glide slope receiving systems. Each system must provide a basic ILS display and each side of the instrument panel must have a basic ILS display. However, a single localizer antenna and a single glide slope antenna may be used.

(2) A communications system that does not affect the operation of at least one of the ILS systems.

(3) A marker beacon receiver that provides distinctive aural and visual indications of the outer and the middle markers.

(4) Two gyroscopic pitch and bank indicating systems.

(5) Two gyroscopic direction indicating systems.

(6) Two airspeed indicators.

(7) Two sensitive altimeters adjustable for barometric pressure, each having a placarded correction for altimeter scale error and for the wheel height of the airplane. Two sensitive altimeters adjustable for barometric pressure, having markings at 20-foot intervals and each having a placarded correction for altimeter scale error and for the wheel height of the airplane.

(8) Two vertical speed indicators.

(9) A flight control guidance system that consists of either an automatic approach coupler or a flight director system. A flight director system must display computed information as steering command in relation to an ILS localizer and, on the same instrument, either computed information as pitch command in relation to an ILS glide slope or basic ILS glide slope

information. An automatic approach coupler must provide at least automatic steering in relation to an ILS localizer. The flight control guidance system may be operated from one of the receiving systems required by subparagraph (1) of this paragraph.

(10) For Category II operations with decision heights below 150 feet, either a marker beacon receiver providing aural and visual indications of the inner marker or a radio altimeter.

(b) *Group II.*

(1) Warning systems for immediate detection by the pilot of system faults in items (1), (4), (5), and (9) of Group I and, if installed for use in Category II operations, the radio altimeter and autothrottle system.

(2) Dual controls.

(3) An externally vented static pressure system with an alternate static pressure source.

(4) A windshield wiper or equivalent means of providing adequate cockpit visibility for a safe visual transition by either pilot to touchdown and rollout.

(5) A heat source for each airspeed system pilot tube installed or an equivalent means of preventing malfunctioning due to icing of the pitot system.

3. *Instruments and equipment approval.*

(a) *General.* The instruments and equipment required by § 2 of this appendix must be approved as provided in this section before being used in Category II operations. Before presenting an airplane for approval of the instruments and equipment, it must be shown that since the beginning of the 12th calendar month before the date of submission—

(1) The ILS localizer and glide slope equipment were bench checked according to the manufacturer's instructions and found to meet those standards specified in RTCA Paper 23-63/DO-117, dated March 14, 1963, "Standard Adjustment Criteria for Airborne Localizer and Glide Slope Receivers," which may be obtained from the RTCA Secretariat, 2000 K St., NW., Washington, D.C. 20006.

(2) The altimeters and the static pressure systems were tested and inspected in accordance with Appendix E to Part 43 of this chapter; and

(3) All other instruments and items of equipment specified in § 2(a) of this appendix that are listed in the proposed maintenance program were bench checked and found to meet the manufacturer's specifications.

(b) *Flight control guidance system.* All components of the flight control guidance system must be approved as installed by the evaluation program specified in paragraph (e) of this section if they have not been approved for Category II operations under applicable type or supplemental type certification procedures. In addition, subsequent changes to make, model, or design of these components must be approved under this paragraph. Related systems or devices, such as the autothrottle and computed missed approach guidance system, must be approved in the same manner if they are to be used for Category II operations.

(c) *Radio Altimeter.* A radio altimeter must meet the performance criteria of this paragraph for original approval and after each subsequent alteration.

(1) It must display to the flightcrew clearly and positively the wheel height of the main landing gear above the terrain.

(2) It must display wheel height above the terrain to an accuracy of plus or minus 5 feet or 5 percent, whichever is greater, under the following conditions:

(i) Pitch angles of zero to plus or minus 5 degrees about the mean approach attitude.

(ii) Roll angles of zero to 20 degrees in either direction.

(iii) Forward velocities from minimum approach speed up to 200 knots.

(iv) Sink rates from zero to 15 feet per second at altitudes from 100 to 200 feet.

(3) Over level ground, it must track the actual altitude of the airplane without significant lag or oscillation.

(4) With the airplane at an altitude of 200 feet or less, any abrupt change in terrain representing no more than 10 percent of the airplane's altitude must not cause the altimeter to unlock, and indicator response to such changes must not exceed 0.1 seconds and, in addition, if the system unlocks for greater changes, it must reacquire the signal in less than 1 second.

(5) Systems that contain a push-to-test feature must test the entire system (with or without an antenna) at a simulated altitude of less than 500 feet.

(6) The system must provide to the flightcrew a positive failure warning display any time there is a loss of power or an absence of ground return signals within the designed range of operating altitudes.

(d) *Other instruments and equipment.* All other instruments and items of equipment required by § 2 of this appendix must be capable of performing as necessary for Category II operations. Approval is also required after each subsequent alteration to these instruments and items of equipment.

(e) *Evaluation program.*—(1) *Application.* Approval by evaluation is requested as a part of the application for approval of the Category II manual.

(2) *Demonstrations.* Unless otherwise authorized by the Administrator, the evaluation program for each airplane requires the demonstrations specified in this subparagraph. At least 50 ILS approaches must be flown with at least five approaches on each of three different ILS facilities and no more than one half of the total approaches on any one ILS facility. All approaches shall be flown under simulated instrument conditions to a 100-foot decision height and 90 percent of the total approaches made must be successful. A successful approach is one in which—

(i) At the 100-foot decision height, the indicated airspeed and heading are satisfactory for a normal flare and landing (speed must be plus or minus 5 knots of programmed airspeed, but may not be less than computed threshold speed if autothrottles are used);

(ii) The airplane, at the 100-foot decision height, is positioned so that the cockpit is within, and tracking so as to remain within, the lateral confines of the runway extended;

(iii) Deviation from glide slope after leaving the outer marker does not exceed 50 percent of full-scale deflection as displayed on the ILS indicator;

(iv) No unusual roughness or excessive altitude changes occur after leaving the middle marker; and

(v) In the case of an airplane equipped with an approach coupler, the airplane is sufficiently in trim when the approach coupler is disconnected at the decision height to allow for the continuation of a normal approach and landing.

(3) *Records.* During the evaluation program the following information must be maintained by the applicant for the airplane with respect to each approach and made available to the Administrator upon request:

(i) Each deficiency in airborne instruments and equipment that prevented the initiation of an approach.

(ii) The reasons for discontinuing an approach, including the altitude above the runway at which it was discontinued.

(iii) Speed control at the 100-foot decision height if autothrottles are used.

(iv) Trim condition of the airplane upon disconnecting the autocoupler with respect to continuation to flare and landing.

(v) Position of the airplane at the middle marker and at the decision height indicated both on a diagram of the basic ILS display and a diagram of the runway extended to the middle marker. Estimated touchdown point must be indicated on the runway diagram.

(vi) Compatibility of flight director with the autocoupler, if applicable.

(vii) Quality of overall system performance.

(4) *Evaluation.* A final evaluation of the flight control guidance system is made upon successful completion of the demonstrations. If no hazardous tendencies have been displayed or are otherwise known to exist, the system is approved as installed.

(4) *Maintenance program.*

(a) Each maintenance program must contain the following:

(1) A list of each instrument and item of equipment specified in § 2 of this appendix that is installed in the airplane and approved for Category II operations, including the make and model of those specified in § 2(a).

(2) A schedule that provides for the performance of inspections under subparagraph (5) of this paragraph within 3 calendar months after the date of the previous inspection. The inspection must be performed by a person authorized by Part 43 of this chapter, except that each alternate inspection may be replaced by a functional flight check. This functional flight check must be performed by a pilot holding a Category II pilot authorization for the type airplane checked.

(3) A schedule that provides for the performance of bench checks for each listed instrument and item of equipment that is specified in § 2(a) within 12 calendar months after the date of the previous bench check.

(4) A schedule that provides for the performance of a test and inspection of each static pressure system in accordance with Appendix E to Part 43 of this chapter within 12 calendar months after the date of the previous test and inspection.

(5) The procedures for the performance of the periodic inspections and functional flight checks to determine the ability of each listed instrument and item of equipment specified in § 2(a) of this appendix to perform as approved for Category II operations, including a procedure for recording functional flight checks.

(6) A procedure for assuring that the pilot is informed of all defects in listed instruments and items of equipment.

(7) A procedure for assuring that the condition of each listed instrument and item of equipment upon which maintenance is performed is at least equal to its Category II approval condition before it is returned to service for Category II operations.

(8) A procedure for an entry in the maintenance records required by § 43.9 of this chapter that shows the date, airport, and reasons for each discontinued Category II operation because of a malfunction of a listed instrument or item of equipment.

(b) *Bench check.* A bench check required by this section must comply with this paragraph.

(1) It must be performed by a certificated repair station holding one of the following ratings as appropriate to the equipment checked:

(i) An instrument rating.

(ii) A radio rating.

(iii) A rating issued under Subpart D of Part 145.

(2) It must consist of removal of an instrument or item of equipment and performance of the following:

(i) A visual inspection for cleanliness, impending failure, and the need for lubrication, repair, or replacement of parts;

(ii) Correction of items found by that visual inspection; and

(iii) Calibration to at least the manufacturer's specifications unless otherwise specified in the approved Category II manual for the airplane in which the instrument or item of equipment is installed.

(c) *Extensions.* After the completion of one maintenance cycle of 12 calendar months, a request to extend the period for checks, tests, and inspections is approved if it is shown that the performance of particular equipment justifies the requested extension.

Appendix B—Authorizations To Exceed Mach 1 (§ 91.817)

Section 1. *Application.*

(a) An applicant for an authorization to exceed Mach 1 must apply in a form and manner prescribed by the Administrator and must comply with this appendix.

(b) In addition, each application for an authorization to exceed Mach 1 covered by § 2(a) of this appendix must contain all information requested by the administrator that he deems necessary to assist him in determining whether the designation of a particular test area, or issuance of a particular authorization is a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and to assist him in complying with that Act, and with related Executive Orders, guidelines, and orders prior to such action.

(c) In addition, each application for an authorization to exceed Mach 1 covered by § 2(a) of this appendix must contain—

(1) Information showing that operation at a speed greater than Mach 1 is necessary to accomplish one or more of the purposes specified in § 2(a) of this appendix, including a showing that the purpose of the test cannot be safely or properly accomplished by overocean testing;

(2) A description of the test area proposed by the applicant, including an environmental analysis of that area meeting the requirements of paragraph (b) of this section; and

(3) Conditions and limitations that will ensure that no measurable sonic boom overpressure will reach the surface outside of the designated test area.

(d) An application is denied if the Administrator finds that such action is necessary to protect or enhance the environment.

Section 2. *Issuance.*

(a) For a flight in a designated test area, an authorization to exceed Mach 1 may be issued when the Administrator has taken the environmental protective actions specified in § 1(b) of this appendix and the applicant shows one or more of the following:

(1) The flight is necessary to show compliance with airworthiness requirements.

(2) The flight is necessary to determine the sonic boom characteristics of the airplane, or is necessary to establish means of reducing or eliminating the effects of sonic boom.

(3) The flight is necessary to demonstrate the conditions and limitations under which speeds greater than a true flight Mach number of 1 will not cause a measurable sonic boom overpressure to reach the surface.

(b) For a flight outside of a designated test area, an authorization to exceed Mach 1 may be issued if the applicant shows conservatively under paragraph (a)(3) of this section that—

(1) The flight will not cause a measurable sonic boom overpressure to reach the surface when the aircraft is operated under conditions and limitations demonstrated under paragraph (a)(3) of this section; and

(2) Those conditions and limitations represent all foreseeable operating conditions.

Section 3. *Duration.*

(a) An authorization to exceed Mach 1 is effective until it expires or is surrendered, or until it is suspended or terminated by the Administrator. Such an authorization may be amended or suspended by the Administrator at any time if he finds that such action is necessary to protect the environment. Within 30 days of notification of amendment, the holder of the

authorization must request reconsideration or the amendment becomes final. Within 30 days of notification of suspension, the holder of the authorization must request reconsideration, or the authorization is automatically terminated. If reconsideration is requested within the 30-day period, the amendment or suspension continues until the holder shows why, in his opinion, the authorization should not be amended or terminated. Upon such showing, the Administrator may terminate or amend the authorization if he finds that such action is necessary to protect the environment, or he may reinstate the authorization without amendment if he finds that termination or amendment is not necessary to protect the environment.

(b) Findings and actions by the Administrator under this section do not affect any certificate issued under Title VI of the Federal Aviation Act of 1958.

**Appendix C—Operations in the North Atlantic (NAT) Minimum Navigation Performance Specification (MNPS) Airspace**

Section 1. NAT MNPS airspace is that volume of airspace between flight level 275 and flight level 400 extending between latitude 27 degrees north and latitude 67 degrees north, bounded in the east by the eastern boundaries of flight information regions Santa Maria Oceanic, Shanwick Oceanic, and Reykjavik, and in the west by longitude 60 degrees west within flight information region New York Oceanic, the western boundary of flight information region Gander Oceanic, and the western boundary of flight information region Reykjavik.

Section 2. The navigation performance capability required for aircraft to be operated in the airspace defined in § 1 of this appendix is as follows:

(a) The standard deviation of lateral track errors shall be less than 6.3 NM (11.7 Km). Standard deviation is a statistical measure of data about a mean value. The mean is zero nautical miles. The overall form of data is such that the plus and minus 1 standard deviation about the mean encompasses approximately 68 percent of the data and plus or minus 2 deviations encompasses approximately 95 percent.

(b) The proportion of the total flight time spent by aircraft 30 NM (55.6 Km) or more off the cleared track shall be less than $5.3 \times 10^{-4}$ (less than 1 hour in 1,887 flight hours).

(c) The proportion of the total flight time spent by aircraft between 50 NM and 70 NM (92.6 Km and 129.6 Km) off the cleared track shall be less than $13 \times 10^{-5}$ (less than 1 hour in 7,693 flight hours).

Section 3. Air traffic control (ATC) may authorize an aircraft operator to deviate from the requirements of § 91.705 for a specific flight if, at the time of flight plan filing for that flight, ATC determines that the aircraft may be provided appropriate separation and that the flight will not interfere with, or impose a burden upon, the operations of other aircraft which meet the requirements of § 91.705.

2. By amending the provisions in other parts of the Federal Aviation Regulations in the specified rules by deleting the references to current Part 91 provisions and substituting for them references to the revised Part 91 provisions as follows:

| Rule | Deletion | Substitution |
|---|---|---|
| | **Part 1** | |
| § 1.1 (Operate) | § 91.10 of this chapter | § 91.13 of this chapter. |
| | **Part 21** | |
| § 21.81(a) | § 91.41 of this chapter | § 91.317 of this chapter. |
| § 21.83(a) | § 91.41 of this chapter | § 91.317 of this chapter. |
| § 21.83(b) | § 91.41 of this chapter | § 91.317 of this chapter. |
| § 21.85(f) | § 91.41 of this chapter | § 91.317 of this chapter. |
| § 21.221(a)(2) | § 91.41 of this chapter | § 91.317 of this chapter. |
| § 21.221(e) | § 91.41 | § 91.317. |
| § 21.223(a)(2) | § 91.41 of this chapter | § 91.317 of this chapter. |
| § 21.223(f) | § 91.41 of this chapter | § 91.317 of this chapter. |
| § 21.225(a)(2) | § 91.41 of this chapter | § 91.317 of this chapter. |
| § 21.225(e) | § 91.41 of this chapter | § 91.317 of this chapter. |
| | **Part 43** | |
| § 43.5(a)(4) | § 91.31 of this chapter | § 91.9 of this chapter. |
| § 43.9(a)(5) | § 91.217 of this chapter | § 91.537 of this chapter. |
| § 43.13(d) | § 91.217 of this chapter | § 91.537 of this chapter. |
| § 43.13(d)(1) | (§ 91.217(b)(1) of this chapter) | (§ 91.537(b)(1) of this chapter). |
| § 43.13(d)(2) | (§ 91.217 of this chapter) | (§ 91.537(b)(2) of this chapter). |
| § 43.13(d)(3) | (§ 91.217(b)(3) of this chapter) | (§ 91.537(b)(3) of this chapter). |
| § 43.13(d)(4) | (§ 91.217(b)(4) of this chapter) | (§ 91.537(b)(4) of this chapter). |
| § 43.313(d)(5) | (§ 91.217(b)(5) of this chapter) | (§ 91.537(b)(5) of this chapter). |
| Appendix E | § 91.170 | § 91.413. |
| Appendix F | § 91.177 of this chapter | § 91.415 of this chapter. |
| | **Part 45** | |
| § 45.22(a)(3)(ii) | § 91.83 of this chapter | § 91.153 and 91.169 of this chapter. |
| | **Part 47** | |
| § 47.9(i)(1)(i) | § 91.173(a)(2)(i) | § 91.417(a)(2)(i). |
| | **Part 61** | |
| § 61.15(b) | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| § 61.118(d)(5) | § 91.169 of this chapter | § 91.409 of this chapter. |
| § 61.153(a) | and §§ 91.1 thru 91.9 | §§ 91.1, 91.3, 91.5, 91.11, 91.13. |
| | **Part 63** | |
| § 63.12(b) | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| | **Part 65** | |
| § 65.12(b) | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| | **Part 93** | |
| § 93.111 | § 91.107 of this chapter | § 91.157 of this chapter. |
| § 93.113 | § 91.107 of this chapter | § 91.157 of this chapter. |
| | **Part 99** | |
| § 99.11(b)(1) | § 91.83 of this chapter | § 91.169 of this chapter. |
| § 99.11(b)(2) | § 91.83(a) (1) thru (7) of this chapter | § 91.153(a) (1) thru (7) of this chapter. |
| § 99.13(b)(1) | § 91.83 of this chapter | § 91.169 of this chapter. |
| § 99.13(b)(2) | § 91.83(a) (1) thru (7) of this chapter | § 91.153(a) (1) thru (7) of this chapter. |
| § 99.17(a) | § 91.125 of this chapter | § 91.183 of this chapter. |
| § 99.25(a)(1) | § 91.125 of this chapter | § 91.183 of this chapter. |
| § 99.27(a) | § 91.75 of this chapter | § 91.123 of this chapter. |
| § 99.31 | § 91.127 of this chapter | § 91.185 of this chapter. |
| | **Part 121** | |
| § 121.15 | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| § 121.207 | § 91.41 | § 91.317. |
| § 121.579(b)(1) | § 91.105 of this chapter | § 91.155 of this chapter. |
| § 121.579(b)(2) | § 91.105 of this chapter | § 91.155 of this chapter. |
| § 121.649(c) | § 91.105 of this chapter | § 91.155 of this chapter. |
| § 121.657(a) | § 91.79 | § 91.119. |
| § 121.667(b) | § 91.83 | §§ 91.153 and 91.169. |
| | **Part 123** | |
| § 123.20 | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| | **Part 125** | |
| § 125.23(b) | § 91.1(c) of this chapter | § 91.703(b) of this chapter. |
| § 125.39 | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| § 125.329(c) | § 91.105 of this chapter | § 91.155 of this chapter. |
| | **Part 127** | |
| § 127.22 | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| § 127.85 | § 91.41 of this chapter | § 91.317 of this chapter. |
| | **Part 133** | |
| § 133.14 | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| | **Part 135** | |
| § 135.3(b) | § 91.1(c) of this chapter | § 91.703(b) of this chapter. |
| § 135.41 | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| § 135.71 | § 91.169 of this chapter | § 91.409 of this chapter. |
| § 135.93(c) | § 91.105 of this chapter | § 91.155 of this chapter. |
| § 135.211(a)(2) | § 91.116(f) of this chapter | § 91.175(f) of this chapter. |
| | **Part 137** | |
| § 137.23 | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| § 137.43(c) | § 91.107(e) of this chapter | § 91.157(e) of this chapter. |
| § 137.53(c)(ii) | § 91.217 of this chapter | § 91.537 of this chapter. |

| Rule | Deletion | Substitution |
|---|---|---|
| | Part 141 | |
| § 141.18 | § 91.12(a) of this chapter | § 91.19(a) of this chapter. |
| § 141.41(a)(1)(iii) | § 91.33 of this chapter | § 91.205 of this chapter. |
| § 141.41(a)(2)(iii) | § 91.33 of this chapter | § 91.205 of this chapter. |

(Sections 307, 313(a), 402, 601, 602, 603, 902, 1110, and 1202 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1372, 1421, 1422, 1443, 1472, 1510, and 1522); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Note.—The reporting and recordkeeping requirements contained in this notice have been approved by the Office of Management and Budget (or the Bureau of the Budget, its predecessor agency).

It has been determined under the criteria of the Regulatory Flexibility Act that this proposed rule will not have a significant economic impact on a substantial number of small entities. This statement is based solely on industry comment as it pertains to this study. As important assumptions are formulated on the direct impacts of this NPRM on specified programs, dollar values may be assigned and levels of impact may be determined with some degree of accuracy.

Note.—The FAA has determined that this document is not considered major under Executive Order 12291, or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 110134; February 26, 1979). Under the provisions of Executive Order 12291, its implementation will not have a major economic affect on consumers, industries, Federal, State, and local government agencies, or geographic regions. There would be no significant affects on competition, employment, investment, productivity, innovations, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises and domestic or import markets. The total projected cost of this rule may be found in the draft regulatory evaluation contained in the public docket. A copy of the evaluation may be obtained by contacting an individual named in the "FOR FURTHER INFORMATION CONTACT" paragraph.

Issued in Washington, D.C., on July 27, 1981.

J. Lynn Helms,

*Administrator.*

[FR Doc. 81-22160 Filed 9-9-81; 8:45 am]

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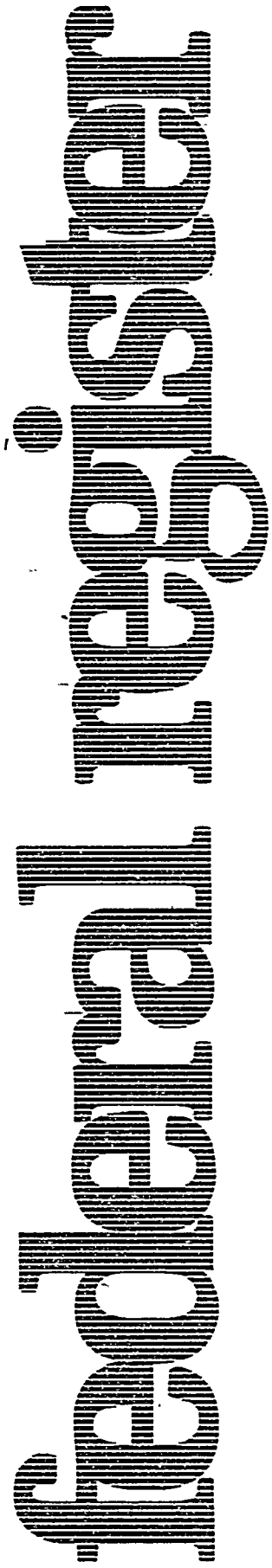

Thursday
September 10, 1981

Part III

# Department of Education

National Institute of Handicapped Research; Research Programs; Final Regulations and Grant Application Notices for FY 1982

## DEPARTMENT OF EDUCATION

### 34 CFR Parts 350, 351, 352, 353, 354, 355, 356, and 362

### National Institute of Handicapped Research; Research Programs

**AGENCY:** Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary adopts final regulations governing the research programs of the National Institute of Handicapped Research. These regulations implement new and revised research authorities contained in Title II of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602).

The regulations include application requirements, a specification of the kinds of activities that can be supported under each of the Institute's research programs, peer review and matching provisions, selection criteria to be used by the Secretary to evaluate grant applications, and provisions authorizing the Secretary to establish research priorities.

**EFFECTIVE DATE:** Unless the Congress takes certain adjournments, these regulations will take effect 45 days after publication in the Federal Register. If you want to know if there has been a change in the effective date of these regulations, call or write the Department of Education contact person. At a future date, the Secretary will publish a notice in the Federal Register stating the effective date of these regulations.

**FOR FURTHER INFORMATION CONTACT:** Michael Herrell, National Institute of Handicapped Research, Department of Education, 400 Maryland Avenue, SW., Room 3511, Switzer Officer Building, Washington, D.C. 202022305, Telephone (202) 472-6551 or for general information on the research programs of the National Institute of Handicapped Research—the Director of the Institute at the following address: Director, National Institute of Handicapped Research, 400 Maryland Avenue, SW., Room 3060, Switzer Office Building, Washington, D.C. 202022305, Telephone (202) 245-0565 or TTY (202) 245-0591.

**SUPPLEMENTARY INFORMATION:** On December 30, 1980 the Secretary published a Notice of Proposed Rulemaking in the Federal Register (45 FR 86317) covering the research programs of the National Institute of Handicapped Research. Organizationally, the proposed regulations consolidated 13 distinct research grant authorities and one fellowship authority into six separate research programs (Parts 351-356). This was done so that the various research programs would correspond to the annual budget categories used by Congress to appropriate funds for the Institute. This organizational structure has been retained in the final regulations. A complete description of these research programs is contained in the Supplementary Information section of the preamble to the Notice of Proposed Rulemaking.

The Department received numerous comments from the public on the proposed regulations. A discussion of major issues and a summary of the public comments and the Department's responses to those comments are attached as Appendix A to this document. Significant changes include: Refinement and clarification of selection criteria in § 350.34, § 352.31, § 354.31, and § 355.31; deletion of provisions requiring confidentiality of personal information (proposed § 350.50) and the identification in grant applications of the amount of matching to be furnished (proposed § 350.21) because they are not required by statute; and the elimination from the regulations of special costs allowable under end-stage renal disease projects because these costs are considered customary and therefore do not warrant particular mention in the regulations (proposed § 351.40).

### Applicability of These Final Regulations

These regulations, including selection criteria, will apply to all grants and fellowship awards made in fiscal year 1982 and succeeding years.

### Assessment of Educational Impact

In the Notice of Proposed Rulemaking published in the Federal Register on December 30, 1980, the Department requested comments on whether the proposed regulations required information that is already being gathered or is available from any other agency or authority of the United States. Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is already being gathered by or is available from any other agency or authority of the United States.

### Burden Reduction

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall objective of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations, especially with regard to paperwork and compliance requirements.

### Citation of Legal Authority

A citation of statutory or other legal authority appears in parenthesis on the line following each section of these regulations.

Dated: September 3, 1981.

T. H. Bell,

*Secretary of Education.*

(Catalog of Federal Domestic Assistance Number 84.133 National Institute of Handicapped Research)

### Appendix A—Analysis of Public Comments and Changes in the Final Regulations

[Note.—This appendix will not appear in the Code of Federal Regulations.]

The following is a summary of public comments concerning the National Institute of Handicapped Research (NIHR) Notice of Proposed Rulemaking (NPRM) published in the Federal Register on December 30, 1980 (45 FR 86317). The summary is divided into three sections.

The first section, entitled "Major Issues," considers the general comments received on three issues which generated the most concern—perceived narrowing of the scope of NIHR research, removal of the 15% ceiling on indirect costs for certain center grants and failure to provide for an exception to EDGAR to permit non-competitive renewals of Research and Training Center grants after five years of funding.

The second section of this summary, entitled "General Comments," considers comments and suggestions concerning the general approach and format of the NIHR NPRM.

The third section, entitled "Proposed Rules," concerns comments and suggestions directed to specific provisions of the NPRM. The comments and responses in this third section are organized in the same order as the provisions occur in the NPRM.

### Major Issues

*Issue: Does adoption in the regulations of the definition of "handicapped individual" provided in Section 7(7)(A) of the Act, rather than the Section 7(7)(B) definition, narrow the scope of research activity NIHR can support?* No.

Section 7(7) of the Act contains two definitions of "handicapped individual." The first definition (section 7(7)(A)) applies to all titles of the Act except Titles IV and V and defines "handicapped individual" in terms of eligibility for vocational rehabilitation

services. The second definition (section 7(7)(B)) applies to Titles IV and V of the Act only and defines "handicapped individual" more broadly in terms of impairments which substantially limit a person's major life activities. While it is clear that the narrower (section 7(7)(A)) definition must be applied to Title II, this does not limit the scope of research activity that NIHR can support. This point was emphasized in the preamble to the NPRM when the Department stated that the 1978 amendments to the Act "broadened the scope of research activity under the general research and demonstrations authority of section 204(a) of the Act from a purely vocational or employment focus to encompass all rehabilitation problems encountered by handicapped individuals in their daily activities." The preamble also contained the following language: "The 1978 amendments also expanded, under certain of the new specialized research programs, the group of handicapped persons intended to benefit from research findings. Although the primary beneficiaries of the Institute's research programs continue to be State vocational rehabilitation agency clients, there are newly authorized grant programs that focus on the needs of preschool age handicapped children, other handicapped children, deaf persons, and handicapped individuals who are aged sixty or older."

*Comment.* Commenters said that using the narrower definition seemed to be inconsistent with the statutory goal of assisting handicapped individuals to live more independently (section 200(2)); with the requirement that the Director of NIHR develop and submit to Congress a research plan identifying research which should be conducted on problems encountered by handicapped individuals in their daily activities (section 202(g)(1)); and with the authority to fund research related to rehabilitation of handicapped children and handicapped individuals who are aged sixty or older (section 204(b)(8)).

Commenters urged the Secretary to clarify within the regulations that research is not confined to problems of employability or intended to benefit only persons considered employable. It was argued that the basic intent of Title II transcends employability and reflects the new rehabilitation philosophy which is concerned with independent living and improvement in the quality of life of handicapped persons as well as vocational rehabilitation.

*Response.* No change has been made in the definition of "handicapped individual" in the final regulations. The Act clearly indicates that the narrower Section 7(7)(A) definition of "handicapped individual" is applicable. However, changes have been made in § 350.1 to emphasize the broadened research authority of NIHR.

*Issue: Should indirect costs on grants for Research and Training Centers be limited to 15% of total direct allowable costs?* No.

Current regulations governing this program (which will be superseded by these regulations) were developed by the Department of Health, Education, and Welfare and provided for a limitation on indirect costs in grants for Research and Training Centers (15% of direct costs less certain exclusions; see 34 CFR 362.62(e)).

*Comment.* A number of commenters from Research and Training Centers, State agencies, and professional associations objected strenuously to the removal of this provision from the NPRM, contending the result would be reduced funds available for direct expenditure on research and training because of high overhead costs.

*Response.* OMB Circular A-21 on cost principles for educational institutions establishes a government-wide policy that Federal programs will bear their "fair share of total costs * * * except where restricted or prohibited by law." It further provides that "agencies are not expected to place additional restrictions on individual items of cost." Consistent with OMB Circular A-21, the Department has established an 8% ceiling on indirect costs for training activities (EDGAR, 34 CFR 75.562).

Although the Department is not prepared at this time to establish any additional limits on indirect costs beyond what is already provided for in EDGAR, it is reviewing the entire issue of indirect costs. Any changes that may result from this review will be reflected in amendments to EDGAR.

*Issue: Should grantees of the Research and Training Center (RTC) program be required to compete for a new grant at the end of each five year project period?* Yes.

Practice in this program while located in the Department of Health, Education, and Welfare (from 1962 to 1980) permitted non-competitive renewals of RTC grants at the end of project periods on the basis of a thorough scientific peer review.

*Comment.* A number of commenters strenuously objected to the failure to include in the regulations any provision for non-competitive renewal of RTC grants. Commenters maintained that much of the research conducted by the RTCs is of a long-term nature and that it usually takes from two to three years to employ the necessary staff. It was further alleged that if staff did not know whether a center's funding was to be continued until the project period was almost completed, centers would experience difficulty in retaining staff as the project termination date approached.

*Response.* Policy of the Department as expressed in EDGAR (34 CFR 75.250) is that project periods can be up to 60 months. Any support beyond 60 months would necessitate a new project period and be governed by the procedures for selecting new projects (34 CFR 75.253(d)). Department policy on the selection of new projects for funding is contained in 34 CFR 75.217(d) and requires the selecting official to determine the order in which applications are selected on the basis of selection criteria and other factors published in the Federal Register. The three exceptions to this procedure are stated in 34 CFR 75.219 and do not apply to this situation. However, 34 CFR 75.116(b) provides the opportunity for prior grantees to submit any existing evaluation of a completed project that is related to a grant proposal for a new project to the Secretary for his consideration during the selection process.

There is, therefore, no basis to continue funding of Research and Training Centers beyond the 60 month maximum project period other than by competition. A regulation permitting non-competitive renewals cannot be included in the regulations.

General Comments

*Comment.* One commenter from a university research center noted that while the NPRM contains specific criteria for evaluating grant applications, there is no mention of the criteria which the Secretary uses in selecting "project concepts" under which grant proposals will be solicited.

*Response.* The NPRM provided in 34 CFR 350.36(a) for the Secretary to solicit grant proposals on two bases: either by specifying project concepts in an Application Notice in the Federal Register or by requesting, also through an Application Notice, that applicants submit field-designed proposals addressing a national need of their own identification. Under the final regulations, the Secretary will solicit grant proposals on one basis: by specifying in an Application Notice in the Federal Register national needs in rehabilitation research, which applicants must address in their grant proposals. National needs will be identified by the Secretary on an annual basis and are derived from the long-

range rehabilitation research planning process required by Section 202(g) of the Act.

*Comment.* Two commenters from a university child medical center suggested that the Secretary should ensure that there is a balance of projects funded in both applied and basic research.

*Response.* NIHR supports both basic and applied research. Since the Act permits basic research to be conducted only where related to rehabilitation techniques or services, most of the research supported is applied research.

*Comment.* The same commenters suggested that priority be given to research that would develop artificial limbs for children.

*Response.* The Department published an Application Notice in the Federal Register on June 24, 1981 (46 FR 32848) soliciting grant proposals for new research projects in fiscal year 1981 in five prioritized research areas, one of which addresses the unmet needs of prosthetics and orthotics. An application focusing on children could be submitted under this priority.

*Comment.* One commenter from a mental health research center remarked that the role of NIHR in coordinating all Federal rehabilitation research through the Interagency Committee on Handicapped Research was not covered in the NPRM.

*Response.* This was not considered an appropriate matter for inclusion within the NIHR regulations. It has no relationship to requirements imposed on NIHR applicants or grantees.

*Comment.* One commenter from a university school of education suggested that § 351.10(b) should include "Management Planning and Evaluation in the State-Federal Rehabilitation Program."

*Response.* The specialized research authorities listed in § 351.10(b) are derived from the Act and cannot be revised without legislative amendment.

*Comment.* One commenter from a rehabilitation research center faulted the NPRM for not distinguishing between new and continuation approval criteria.

*Response.* The criteria specified in these regulations apply only to approval of new projects. Criteria for approval of continuation awards are contained in 34 CFR 75.253(a).

*Comment.* One commenter from a Research and Training Center requested that greater clarification be made between Research and Training Centers under 34 CFR Part 352 and Model Training Centers under 34 CFR Part 354.

*Response.* The greatest difference between the two types of centers is their scope of responsibility. Model Training Centers must focus their activities on evaluating and developing the employment potential of handicapped persons, whereas Research and Training Centers can concentrate on any aspect of rehabilitation that addresses the needs of handicapped persons in their geographic area. The final regulations clearly distinguish these two types of centers.

*Comment.* One commenter asked if there will be standard criteria for evaluating jointly funded projects under Section 204(b)(7) of the Act.

*Response.* If NIHR is designated lead agency and holds the competition for a jointly funded project then its selection criteria governing jointly funded projects will apply. If another agency is designated lead agency, it will announce the competition and its criteria will apply.

*Comment.* One commenter asked what was meant in the preamble to the NPRM where the broadened scope of the Institute's research program was discussed and the following words were employed: "Primary beneficiaries of the Institute's research programs continue to be State vocational rehabilitation clients."

*Response.* This language recognizes that although there are new research authorities in Title II that address the specialized rehabilitation needs of handicapped children or individuals aged sixty or older, the primary beneficiaries of much of the Institute's research continue to be State agency vocational rehabilitation clients.

**Proposed Rules**

*Part 350—Handicapped Research: General Provisions*

Subpart A—General

§ *350.1(a) Handicapped research.*

*Comment.* Three commenters suggested the mission of NIHR had been reflected too narrowly and referred to Section 200 of the Act where one of the purposes is to "increase the scientific and technological information presently available in the field of rehabilitation."

*Response.* Changes have been made in the wording of this section to reflect the fact that the research authority of Title II covers research in other areas besides vocational rehabilitation, including independent living, and research directed to meet the needs of handicapped children and handicapped persons aged sixty or older.

§ *350.4 Definitions.*

*"Core area"*

*Comment.* "Core area" was defined in the NPRM as "a program of research in which entire activity is planned so as to contribute in a sequential or complementary way to a centralized body of knowledge of manageable scope." One commenter found the use of the phrase "a program of research" confusing.

*Response.* This comment has been accepted and the definition of "core area" has been rewritten to indicate that it means a discrete area of research consisting of a group of related research projects or studies rather than an entire program of research.

*"Handicapped individual"*

*Comment.* The essence of the comments received on this definition are discussed in the section entitled "Major Issues" and relates to whether the use of the Section 7(7)(A) definition of "handicapped individual" in the regulations is inconsistent with the broad rehabilitation scope of the Institute's research authority.

*Response.* The term "handicapped individual" is a defined statutory term. The Section 7(7)(A) definition applies to Title II except where the context indicates otherwise. For example, research programs specifically benefitting handicapped children or handicapped persons aged sixty or older are not covered by this definition. The regulations use terms other than "handicapped individual" wherever it is possible to do so.

*"Project concept"*

*Comment.* One commenter suggested this definition should be made applicable to centers as well as projects.

*Response.* This definition has been deleted from the final regulations which govern financial assistance by the grants mechanism. The Department believes the "project or center concept" approach to soliciting grant proposals is overly prescriptive and does not allow applicants sufficient flexibility to design their own research to address unmet rehabilitation needs.

*"Research"*

*Comment.* One commenter suggested the words "on a continuum" be added to the last sentence of this definition.

*Response.* The suggestion has been adopted. The definition now recognizes that research may be basic, applied, or a combination of the two.

*"Basic research;" "Applied research"*

*Comment.* One commenter from the developmental disability field felt that the definitions of these two terms did not sufficiently distinguish one from the other. This commenter suggested that the essential difference between basic and applied research is that basic

research is undertaken without reference to any immediate application or use, whereas applied research always addresses a predetermined rehabilitation problem or need.

*Response.* These suggestions were accepted and the two definitions have been revised accordingly.

*"State rehabilitation agency"*

*Comment.* One commenter from a State agency suggested that the term "designated State unit" be substituted in the regulations for the term "State rehabilitation agency."

*Response.* This comment cannot be accepted. "Designated State unit" is a defined statutory term that has applicability to certain titles of the Act, but not Title II. "State rehabilitation agency" is defined in these regulations because of the requirement in Section 306(i) of the Act that State vocational rehabilitation agencies be given an opportunity to comment on applications for grant assistance.

*§ 350.31 What is the purpose of peer review?*

*Comment.* One commenter suggested the purpose of peer review is to insure that those activities supported by the Institute are of the highest scientific, administrative *and* technical quality.

*Response.* This suggestion was adopted and the word "and" has been substituted for the word "or."

*Comment.* One commenter called attention to the requirement in the Act (section 202(e)) that peer reviewers must be from the field of rehabilitation.

*Response.* This was an inadvertent omission from the proposed regulations. The final regulations reflect this requirement.

*§ 350.36 What selection criteria does the Secretary use in reviewing a grant application?*

*Comment.* It was noted that the section numbers in Subpart D were not consecutive, and it was confusing.

*Response.* This was an oversight and the sections in Subpart D have been renumbered. This section is now § 350.34.

*Comment.* One commenter pointed out that in a situation where an Application Notice does not give a specific project concept but rather identifies a national need and leaves it to each applicant to approach the solution through an individual project concept, there should be a way to weigh the relative importance of the concept.

*Response.* This idea has been accepted. The revised criterion entitled "national need" provides a basis for evaluating how well a proposed project or center addresses an identified national need. Consideration is given to the size and type of target population expected to benefit from the proposed research and the nature and degree of that benefit.

*Comment.* One commenter suggested that there should be a separate set of selection criteria for the Research and Training Centers Program.

*Response.* A separate set of selection criteria has been developed for the Research and Training Center Program (34 CFR 352.31) on the basis of comments received. In addition to the five EDGAR criteria described in 34 CFR 75.202–206, consideration will be given to relevance to a national need, the program of the center, and adequacy of consumer involvement.

*§ 350.36(a) Project concept or national need.*

*Comment.* Several comments from Research and Training Centers and from two professional associations within the rehabilitation field suggested that the criterion "literature review" should be combined with this criterion because an assessment of existing research in the project area is an essential first task in developing a sound scientific proposal.

*Response.* This comment has been accepted. The requirement for a literature review has therefore been combined with the first criterion which has been retitled "national need."

*§ 350.36(b) Research design.*

*Comment.* One commenter, a representative of a research committee from a professional association in the rehabilitation field, suggested the addition of the word "methods" after the word "statistical" in § 350.36(b)(2)(v) and the addition of the word "proposed" before the word "data" in § 350.36(b)(2)(vi).

*Response.* These suggestions have been accepted because the additions help to clarify and sharpen the regulations.

*Comment.* This same commenter and one from another association suggested a lower weight for the criterion "research design."

*Response.* This comment has been accepted. The point scores for some of the other criteria have also been adjusted.

*§ 350.36(c) Plan of operation.*

*§ 350.36(d) Evaluation plan.*

*Comment.* One commenter, who is a research scientist, suggested there is some duplication between these criteria and was somewhat unhappy with both.

*Response.* Previous rulemaking (34 CFR 75.202–206, Education Department General Administrative Regulations) established these two criteria, among others, as essential elements in any selection criteria used by programs within this Department. Therefore no change can be made. The Department believes, however, that these two criteria are not duplicative and are essential elements to be considered in the grant making process.

*§ 350.36(g) Research utilization plan.*

*Comment.* One commenter, a research utilization specialist, suggested combining the first two elements of this criterion (what will be delivered, and format of delivery) and adding other elements that address important concerns such as the application and costs of application of research findings and the expected effect and possible limits of utilization.

*Response.* This comment has been accepted. The result is an expanded clearer criterion that offers more helpful guidance to applicants and emphasizes practical applications of any research to be conducted.

*§ 350.40 What are the matching requirements?*

*Comment.* One reviewer was concerned that there is no specific percentage of matching required and that the degree of matching might become a factor in project evaluation and selection.

*Response.* The wording of this regulation has been changed to make clear that the degree of matching, if any, will be determined at the time of the grant award and is not part of any selection criterion or selection factor.

*§ 351.1 What is the Research and Demonstration Projects Program?*

*Comment.* One commenter suggested the wording of this introductory clause would be more accurate if the first words "A research project under" were deleted.

*Response.* This suggestion was adopted to more accurately express the purposes of this research program.

*§ 351.10(a) What types of projects are authorized under this program?*

*Comment.* Two commenters, both from professional associations, suggested the words "medical and other" be deleted from the beginning of this paragraph and the word "medical" inserted after the words "analysis of" in the second clause of this paragraph. This was suggested as a way of improving the awkwardness of the language.

*Response.* These comments were adopted.

*Comment.* One commenter suggested that demographic studies should be included under the types of research and demonstration projects able to be undertaken.

*Response.* This comment has been accepted. Demographic studies can be considered to be "related activities" which hold promise of increasing rehabilitation knowledge, as authorized under section 204(a) of the Act.

*§ 351.10(b) Specialized research activities.*

*Comment.* One commenter suggested the addition of "Management, Planning and Evaluation in the State-Federal Rehabilitation Program" to the list of specialized research activities in this subparagraph.

*Response.* This comment cannot be accepted since all the specialized research activities listed in the regulation are explicitly authorized by statute. No additions can be made.

*§ 351.31 What selection criteria are used under this program?*

*Comment.* Comments on selection criteria have been discussed earlier in this analysis. Only two commenters addressed themselves to the distribution of weights in this program. Both suggested a concentration of weights in the first two criteria.

*Response.* It was not possible to adopt the exact distribution proposed, but the first two criteria are the most heavily weighted.

*§ 352.1 What is the Rehabilitation Research and Training Center Program?*

*Comment.* One reviewer felt this section did not adequately reflect the purpose of section 204(b)(1) of the Act.

*Response.* Revised wording has been substituted to more accurately reflect the three major statutory purposes of this program.

*§ 352.2 Who is eligible for assistance under this program?*

*Comment.* Because the description of centers in § 352.10 does not authorize "joint projects with * * * and private industry," as does § 353.10(b), one commenter felt that the Research and Training Centers (RTC) Program was being unnecessarily limited.

*Response.* Section 352.4 cross references § 350.4, which indicates that grants can be made to private agencies (which includes private industry). Since the RTC program can only support *center* grants, the omission of the words "joint *projects* with * * * and private industry" is appropriate. This does not preclude an RTC grantee from engaging in joint research activities with any organization that has the adequate expertise, nor does it preclude NIHR from making a grant under its joint project authority (§ 351.10) with private industry.

*Comment.* One commenter from an RTC suggested that "the private sector" should not be candidates for RTC grants since that would compromise the mission and efforts of current grantees and be inconsistent with the statutory requirement that centers be operated in collaboration with institutions of higher education.

*Response.* Under the 1978 amendments to the Act, private agencies and organizations, for the first time, are eligible for grant assistance. We do not believe private sector eligibility is inconsistent with the purposes or requirements of the Research and Training Center Program.

*§ 352.10 What types of centers are authorized under this program?*

*Comment.* In analyzing the comments on this section, it was discovered that the requirement that Research and Training Centers be "operated in collaboration with institutions of higher education" had been inadvertently omitted in the NPRM.

*Response.* This requirement has been included in § 352.10(a) of the final regulations.

*§ 352.10(a)*

*Comment.* Two commenters, each from a different professional association, expressed confusion about whether centers are required to develop practical applications for all of their research findings, including those in basic research.

*Response.* Need for clarification is accepted. The revised regulation encourages, but does not require, grantees to develop practical applications for all research, regardless of its nature.

*Comment.* One commenter, a university based director of training, suggested that requiring RTCs to conduct research based on the particular needs of handicapped individuals in the geographic area served by the center seems to restrict certain centers which have activities of a national scope.

*Response.* The statute requires that centers consider the rehabilitation needs of its community in planning its program of research. This does not preclude the use of other sources of needs identification to help select problems for research study. The fact that research is tailored to the needs of a particular geographic region does not mean it cannot also be of national interest or scope.

*Comment.* Three commenters questioned the absence of any requirement for an adivsory council.

*Response.* This suggestion has not been accepted because of the Department's ongoing efforts to reduce regulatory burdens by eliminating from its regulations as many requirements as possible that are not imposed by statute. Advisory councils are not required by statute. The Department appreciates the value of communication between centers and other areas of the rehabilitation community, however, and has developed a new selection criterion which evaluates the adequacy of these communications without requiring any particular communication mechanism or process.

*§ 352.31 What selection criteria are used under this program?*

*Comment.* A number of commenters suggested that because of the special nature of an RTC organization and its methods of research, there should be a separate set of selection criteria for this program.

*Response.* These comments have been accepted. Two new criteria have been developed that are unique to the Research and Training Center program: "program of the center," which replaces "research design," and "adequacy of consumer involvement."

*§ 352.31(b) Research design.*

*Comment.* Several commenters from Research and Training Centers and from professional associations suggested that this criterion was inappropriate for evaluation of a proposal to fund a Research and Training Center and that it be replaced by a criterion which would evaluate the "program of the center." This criterion would consist of such elements as the degree to which the center's research and training activities are based on a group of related research core areas that help to serve the needs of the affected target population; the soundness of the center's methodological approach to conducting its research; and the degree to which research results will be assessed in a service setting.

*Response.* This comment was accepted. The new selection criterion "program of the center" contains most of the elements suggested by the various commenters.

*Comment.* Differences of opinion were expressed by a number of commenters about the weight of this and other selection criteria. In general, most expressed the view that the first

criterion should have a higher point score and the second criterion a lower one.

*Response.* Five points were added to the first criterion and five removed from the second criterion.

*§ 352.36(g) Research utilization plan.*

*Comment.* Three commenters from Research and Training Centers requested that this criterion be eliminated and its elements subsumed within the criterion "program of the center."

*Response.* This comment was accepted. Those aspects of research utilization that relate to disseminating information and encouraging the use of research results are now contained in the newly developed criterion "program of the center."

*Comment.* Several comments from Research and Training Center groups asked that an additional criterion be developed for Research and Training Centers that requires each center to have an advisory council and that assesses the adequacy of that council in terms of broad-based membership and its ability to provide linkages with the rehabilitation community. It was pointed out that for many years this program has required each Research and Training Center to have an advisory council in order to assist in identifying research and training priorities and in communicating the research findings that result from the center's activities.

*Response.* These comments have been partially accepted. A new criterion entitled "adequacy of consumer involvement" has been developed which largely reflects the concerns of the commenters without specifying what particular mechanism should be used to facilitate grantee communication and linkages with the rehabilitation community.

*§ 353.10(a) What types of projects are authorized under this program?*

*Comment.* One commenter suggested adding language to this section that would indicate that Rehabilitation Engineering Centers can conduct research in independent living or research related to the rehabilitation of handicapped persons aged sixty or older.

*Response.* This comment has been accepted and the regulations now indicate that rehabilitation research of all types and benefitting persons of any age can be conducted.

*§ 353.31 What selection criteria are used under this program?*

*Comment.* Two commenters from Research and Training Centers suggested that the selection criteria for the Rehabilitation Engineering Program should be the same as that for the Rehabilitation Research and Training Center Program.

*Response.* Because the Rehabilitation Engineering Program (which contains all the engineering and technology research of the Institute) funds both projects and centers whose research is technological in nature, it is felt that the criterion "research design" is more appropriate to this program than the criterion "program of the center." Therefore these suggestions are not accepted.

*§ 354.10 What types of centers are authorized under this program?*

*Comment.* One commenter suggested that many of the provisions in this section were overly prescriptive and should be removed from the regulations.

*Response.* This comment was accepted. The description of center activities has been streamlined and now reflects only those requirements imposed by statute or considered programmatically essential.

*§ 354.31 What selection criteria are used under this program?*

*Comment.* One commenter, an administrator, suggested that because of the similarity of this program to the RTC program (34 CFR Part 352) there should be similar selection criteria.

*Response.* This comment has been accepted. The selection criteria for the Rehabilitation Research and Training Center Program and the Model Research and Training Program are virtually identical as are the point scores for each criterion.

*§ 355.10 What types of activities are authorized under this program?*

*Comment.* One commenter, an administrator, noted that one important aspect of section 204(b)(5) of the Act is international information exchange and observed that the NPRM description of authorized activities under 34 CFR Part 355 did not include any reference to this activity. It was suggested that this omission be corrected.

*Response.* This comment has been accepted. § 355.10 now indicates that authorized activities under the Knowledge Dissemination and Utilization Program include domestic *and international* research utilization and information exhange.

*§ 356.41 Employment during fellowship period.*

*Comment.* Only one comment was received on the fellowship program as described in the NPRM. That commenter (an assocation representative) interpreted the requirement that research fellows be engaged full time on fellowship activities to prohibit study during the fellowship period.

*Response.* A change has been made in this regulation to indicate that research fellows may work part time if agreed to by the Secretary at the time of the award. Normally, however, research fellows are expected to work full time on authorized fellowship activities. Authorized activities may include some training or educational study if consistent with the overall purpose of the fellowship program which is to obtain the assistance of highly qualified individuals to perform rehabilitation research activities. The research fellowship program is not intended to be a student support program.

The Secretary amends Title 34 of the Code of Federal Regulations by removing Subpart D of Part 362 and adding new Parts 350, 351, 352, 353, 354, 355 and 56 to read as follows:

## PART 350—HANDICAPPED RESEARCH: GENERAL PROVISIONS

Subpart A—General

Sec.



Subpart B—[Reserved]

Subpart C—How Does One Apply for a Grant?



Subpart D—How Does the Secretary Make a Grant?



Subpart E—What Conditions Apply to a Grantee?



Authority. Title II of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended by Pub. L. 95-602 (29 U.S.C. 760-762; 92 Stat. 2962-2966).

### Subpart A—General

#### § 350.1 Handicapped research.

(a) The purposes of activities funded by the Institute are to—

(1) Support the conduct of research and demonstration projects, centers, and related activities that address rehabilitation problems in areas ranging from vocational rehabilitation to independent living, including programs of rehabilitation for handicapped children and handicapped persons aged sixty or older and programs that train persons who provide rehabilitation services or conduct research;

(2) Facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices;

(3) Improve the distribution of technological devices and equipment for handicapped individuals and other handicapped persons; and

(4) Increase the scientific and technological information presently available in the field of rehabilitation through the support of applied research and basic research where related to rehabilitation techniques or services;

(b) The Secretary awards financial assistance through six types of programs—

(1) Research and demonstration projects (34 CFR Part 351);

(2) Research grants for establishment and operation of rehabilitation research and training centers (34 CFR Part 352);

(3) Research grants for establishment and operation of rehabilitation engineering programs (34 CFR Part 353);

(4) Research grants for establishment and operation of model training centers (34 CFR Part 354);

(5) Knowledge dissemination and research utilization projects (34 CFR Part 355); and

(6) Research fellowships (34 CFR Part 356).

(Secs. 200 and 204; (209 U.S.C. 760 and 762))

**§ 350.2 Who is eligible for assistance under these programs?**

The following agencies and organizations are eligible for grants or contracts as appropriate under these programs:

(a) State and public agencies or organizations;

(b) Private agencies or organizations; and

(c) Institutions of higher education.

(Sec. 204; (29 U.S.C. 762))

**§ 350.3 What regulations apply to these programs?**

The following regulations apply to grants under the Handicapped Research Programs—

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR Part 77 (Definitions);

(b) The regulations in this Part, 34 CFR Part 350;

(c) The regulations in 34 CFR Parts 351, 352, 353, 354, or 355, as appropriate; and

(d) The regulations in 45 CFR Part 46 (Protection of Human Subjects).

(Secs. 202, 204; (29 U.S.C. 761a, 762))

**§ 350.4 What definitions apply to these programs?**

(a) The following definitions in 34 CFR Part 77 apply to the programs under Handicapped Research—

Applicant.
Application.
Award.
Budget Period.
Department.
EDGAR.
Grant Period.
Nonprofit.
Nonpublic.
Preschool.
Private.
Project.
Project Period.
Public.
Secretary.
State.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

(b) The following definitions also apply to programs under Handicapped Research—

*"Act"* means the Rehabilitation Act of 1973 (Public Law 93–112), as amended.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

*"Core area"* means a discrete area of research consisting of a group of related research projects or studies which contribute cumulatively to the resolution of practical rehabilitation problems.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

*"Demonstration"* means the application of results derived from previous research, testing, or practice for purposes of establishing the reliability, indicating the validity, or determining the cost effectiveness of new rehabilitation procedures.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

*"Development"* means the systematic use of knowledge and understanding gained from research, directed toward creating useful materials, devices, systems, or methods, including design and development of prototypes and processes.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

*"Director"* means Director of the National Institute of Handicapped Research.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)((1)))

*"Fellowship"* means a financial award to obtain the assistance of highly qualified research fellows from the United States and foreign countries. It is not a grant.

(Sec. 202(d); (29 U.S.C. 761a(d)))

*"Handicapped individual"* means any individual who (1) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and (2) can reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services.

(Sec. 7(7)a; (29 U.S.C. 706(7)(A)))

*"Institute"* means the National Institute of Handicapped Research.

(Sec. 202(a); (29 U.S.C. 761a(a)))

*"Research"* means intensive systematic study directed toward new or fuller scientific knowledge or understanding of the subject or problem studied. Research is classified on a continuum from basic to applied.

(1) *"Basic research"* is research in which the investigator is concerned primarily with gaining new knowledge or understanding of a subject without reference to any immediate application or utility.

(2) *"Applied research"* is research in which the investigator is primarily interested in developing new knowledge, information or understanding which can be applied to a predetermined rehabilitation problem or need. Applied research builds on selected findings from basic research.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

*"Research utilization"* means activities seeking to link research findings to practical applications in planning, policy-making, program administration, and service practice in the delivery of services to handicapped persons.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

*"State rehabilitation agency"* means the sole State agency designated to administer (or supervise local administration of) the State plan for vocational rehabilitation services. The term includes the State agency for the blind, if designated as the State agency with respect to that part of the plan relating to the vocational rehabilitation of blind individuals.

(Sec. 101(a)(1)(A); (29 U.S.C. 721(a)(1)(A)))

*"Target population"* means the group of individuals, organizations, or other entities expected to be affected by the results of specific research. More than one target group may be involved since research results may affect those who

receive services, provide services, or administer services.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

*"Training"* means a planned and systematic sequence of instruction under competent supervision which is designed to impart predetermined skills and knowledge.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

## Subpart B [Reserved]

## Subpart C—How Does One Apply for a Grant?

### § 350.20 What are the application procedures for these programs?

An applicant for assistance under 34 CFR Parts 351, 352, 353, 354, or 355 shall submit a copy of the application to the State rehabilitation agency for comment in accordance with the procedures in EDGAR §§ 75.155–75.159.

(Secs. 204c, 306(i); (29 U.S.C. 762(c), 766(a)))

## Subpart D—How Does the Secretary Make a Grant?

### § 350.30 To whom does the Secretary refer an application?

The Secretary refers each application for a grant under the Handicapped Research Programs to a peer review panel established by the Secretary. Peer review panels review applications for the Secretary on the basis of selection criteria described in §§ 350.34, 352.31, 354.31, or 355.31, as appropriate.

(Sec. 202(e); (29 U.S.C. 761a(e)))

### § 350.31 What is the purpose of peer review?

The purpose of peer review is to insure that those activities supported by the Institute are of the highest scientific, administrative, and technical quality and that the results may be widely applied to appropriate target populations and rehabilitation problems.

(Sec. 202(e); (29 U.S.C. 761a(e)))

### § 350.32 What is the composition of a peer review panel?

(a) To the maximum extent possible, the Secretary selects as members of a peer review panel non-Federal scientists and other experts in the field of rehabilitation qualified by training and experience of a particular scientific, administrative, or technical nature to give expert advice on the merit of grant applications.

(b) In selecting an individual for membership on a peer review panel, the Secretary takes into account, among other factors, the following:

(1) The level of formal scientific or technical education completed by the individual;

(2) The extent to which the individual has engaged in scientific, technical, or administrative activities appropriate to the category of applications that the panel will consider, the role of the individual in those activities, and the quality of those activities; and

(3) The recognition received by the individual as reflected by awards and other honors from scientific and professional agencies and organizations outside the Department.

(Sec. 202(e); (29 U.S.C. 761a(e)))

### § 350.33 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application under 34 CFR Parts 351 and 353 on the basis of the selection criteria in § 350.34. The Secretary evaluates an application under 34 CFR Parts 352, 354, or 355 on the basis of the selection criteria in §§ 352.31, 354.31 or 355.31, as appropriate.

(b) The Secretary awards up to 100 possible points for these criteria.

(c) The maximum possible score for each criterion is indicated in parenthesis after the descriptive title of the criterion. For some of the criteria there is also a designation of the maximum score assigned to each of the component elements of those criteria.

(Sec. 202e; (29 U.S.C. 761a(e)))

### § 350.34 What selection criteria does the Secretary use in reviewing grant applications?

The selection criteria to be used for evaluating applications under the Research and Demonstration Projects Program (34 CFR Part 351) and the Rehabilitation Engineering Program (34 CFR Part 353) are described as follows:

(a) *National need* (20 points) (1) The Secretary reviews each application for information that shows how well the proposed project or center will address a national need identified in an Application Notice published in the Federal Register.

(2) The Secretary looks for information that shows—

(i) An adequate review of the literature showing what research has already been conducted in areas related to the identified national need (5 of the 20 points);

(ii) The size and type of target population(s) expected to benefit from the proposed research (5 of the 20 points); and

(iii) The nature and degree of that benefit (impact on the target population(s)) (10 of the 20 points);

(b) *Research design* (25 points). (1) The Secretary reviews each application for information that shows the quality of the research design of the project or center.

(2) The Secretary looks for information that shows—

(i) Clarity and achievability of the project or center objectives (5 of the 25 points);

(ii) Validity of the procedures to be utilized in achieving each objective (4 of the 25 points);

(iii) Precise definitions of terms where necessary (4 of the 25 points);

(iv) Description of subject population and appropriateness of sample size (4 of the 25 points);

(v) Appropriateness of statistical methods and instruments to be used (4 of the 25 points); and

(vi) Adequacy of proposed data analysis and basis for the conclusions reached (4 of the 25 points).

(c) *Plan of operation* (15 points). See 34 CFR 75.202.

(d) *Evaluation plan* (5 points). See 34 CFR 75.205.

(e) *Quality of key personnel* (10 points). See 34 CFR 75.203.

(f) *Adequacy of resources* (10 points). See 34 CFR 75.206.

(g) *Research utilization plan* (10 points). (1) The Secretary reviews each application for information that shows the quality of the research utilization plan.

(2) The Secretary looks for information that shows—

(i) The format in which results, findings, or outcomes will be disseminated to the rehabilitation community;

(ii) How the research results may be applied and the costs of its application;

(iii) The expected effect of using the research findings;

(iv) The possible limitation of the findings and any other factors that might promote or inhibit its use; and

(v) The degree of effort needed and the means necessary to promote the adoption of the findings.

(h) *Budget and cost effectiveness* (5 points). See 34 CFR 75.204.

(Secs. 202(e) and 202(i)(1); (29 U.S.C. 761a(e) and 761a(i)(1)))

## Subpart E—What Conditions Apply to a Grantee?

### § 350.40 What are the matching requirements?

(a) The Secretary may make grants to pay for part of the costs of research and demonstration projects which bear directly on the development of procedures, methods, and devices to assist in the provision of vocational and other rehabilitation services. Each grantee must participate in the costs of

such projects. The specific amount of cost sharing to be borne by each grantee will be negotiated at the time of the award and is not a factor to be considered in the selection process.

(b) The Secretary may make grants to pay for part or all of the costs of the following activities: establishment and support of Rehabilitation Research and Training Centers. Rehabilitation Engineering Centers, and Model Training Centers; research projects concerned with spinal cord injury, end-stage renal disease, telecommunications, rehabilitation of handicapped children and handicapped individuals who are aged sixty or older, attracting and retaining rehabilitation professionals in rural areas, producing and distributing captioned video cassettes for deaf individuals, and innovative methods of providing services for handicapped children and their parents; joint projects with other Federal agencies and private industry; and international programs of research, demonstration, training, exchange of experts and technical assistance. The Secretary will determine at the time of the award whether the grantee must pay a portion of the project or center costs.

(Sec. 204; (29 U.S.C. 762))

## PART 351—HANDICAPPED RESEARCH: RESEARCH AND DEMONSTRATION PROJECTS

### Subpart A—General

Sec.



### Subpart B—What Kinds of Activities Does the Department Support Under This Program?



### Subpart C—[Reserved]

### Subpart D—How Does the Secretary Make a Grant?



Authority: Title II of the Rehabilitation Act of 1973 (Pub. L. 93-112) as amended by Pub. L. 95-602 (29 U.S.C. 760-762; 92 Stat. 2962-2966)

### Subpart A—General

**§351.1 What is the research and demonstration projects program?**

This program is designed—

(a) To assist in the provision of vocational and other rehabilitation services to handicapped individuals, especially the most severely handicapped, through planning and conducting of research and demonstration projects, and specialized research activities;

(b) To cooperate with and assist in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals; and

(c) To assist in development of solutions to problems encountered by handicapped individuals in their daily activities, especially problems related to employment.

(Secs. 202(g)(1); 204; (29 U.S.C. 761a(g)(1), 762))

**§351.2 Who is eligible for assistance under this program?**

Those agencies and organizations eligible to apply under this program are described in 34 CFR 350.2.

(Sec. 204; (29 U.S.C. 762))

**§351.3 What regulations apply to this program?**

The regulations referenced in 34 CFR 350.3 apply to this program.

(Secs. 202 and 204; (29 U.S.C. 761a, 762))

**§351.4 What definitions apply to this program?**

The definitions listed in 34 CFR 350.4 apply to this program.

(Sec. 202(i)(l); (29 U.S.C. 761a(i)(l)))

### Subpart B—What Kinds of Activities Does the Department Support Under This Program?

**§351.10 What types of projects are authorized under this program?**

The Research and Demonstration Projects Program provides financial assistance for the following types of projects—

(a) Research and demonstration projects as follows—

Scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services; studies and analyses of medical, industrial, vocational, social, psychiatric, psychological, economic and other factors affecting rehabilitation of handicapped individuals; research concerned with the special problems of homebound and institutionalized individuals; other research related to problems encountered by handicapped individuals in their daily activities, especially problems related to employment; and demographic studies of handicapped individuals.

(b) Specialized research activities as follows—

(1) Spinal cord injury research and demonstrations;

(2) End-stage renal disease research and demonstrations;

(3) International research, demonstrations, training, and exchange of experts and technical assistance except when related to technology, engineering, research utilization, or research dissemination;

(4) Joint projects with other Federal agencies and private industry except when related to technology or engineering;

(5) Research related to handicapped children and handicapped individuals aged 60 years and older;

(6) Projects to develop and demonstrate methods to attract and retain professionals to serve in rural areas in the rehabilitation of handicapped individuals; and

(7) Research and demonstration projects related to the provision of services to handicapped preschool children.

(Secs. 204(a), 204(b) (3)-(5), 204(b) (7)-(9), 204(b)(11), 202(b)(8); 29 U.S.C. 762(a), 762(b) (3)-(5), 762(b) (7)-(9), 762(b)(11), 761a(b)(8))

### Subpart C—[Reserved]

### Subpart D—How Does the Secretary Make a Grant?

**§ 351.30 How is peer review conducted under this program?**

Peer review is conducted under this program in accordance with 34 CFR 350.30-350.32.

(Sec. 202(e); (29 U.S.C. 761a(e))

**§ 351.31 What selection criteria are used under this program?**

(a) *National need* (20 points). See § 350.34(a).

(b) *Research design* (25 points). See § 350.34(b).

(c) *Plan of operation* (15 points). See 34 CFR 75.202.

(d) *Evaluation plan* (5 points). See 34 CFR 75.205.

(e) *Quality of key personnel* (10 points). See 34 CFR 75.203.

(f) *Adequacy of resources* (10 points). See 34 CFR 75.206.

(g) *Research utilization plan* (10 points). See § 350.34(g).

(h) *Budget and cost effectiveness* (5 points). See 34 CFR 75.204.

(The Secretary awards up to 100 possible points under these criteria.)

(Secs. 202(e) and 202(i)(1); (29 U.S.C. 761a(e) and 761a(i)(1))

**§ 351.32 What are the priorities for funding under this program?**

(a) The Secretary may from time to time reserve funds to support some or all of the types of projects listed in §351.10.

(b) The Secretary advises the public of these priorities through an Application Notice published in the Federal Register.

(Secs. 202(g), 204; (29 U.S.C. 761a(g), 762))

## Part 352—Handicapped Research: Rehabilitation Research and Training Centers

### Subpart A—General

Sec.

352.1 What is the Rehabilitation Research and Training Centers program?
352.2 Who is eligible for assistance under this program?
352.3 What regulations apply to this program?
352.4 What definitions apply to this program?

### Subpart B—What Kinds of Activities Does the Department Assist Under This Program?

352.10 What types of centers are authorized under this program?

### Subpart C—[Reserved]

### Subpart D—How Does the Secretary Make a Grant?

352.30 How is peer review conducted under this program?
352.31 What selection criteria are used under this program?
352.32 What are the priorities for funding under this program?

Authority: Title II of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended by Pub. L. 95-602 (29 U.S.C. 760-762; 92 Stat. 2962-2966).

### Subpart A—General

**§ 352.1 What is the rehabilitation research and training centers program?**

This program is designed to support the establishment and operation of Rehabilitation Research and Training Centers for the purpose of—

(a) Providing training (including graduate training) to research and other rehabilitation personnel and to assist individuals to more effectively provide rehabilitation services; and

(b) Conducting coordinated and advanced programs of rehabilitation research.

(Sec. 204(b)(1); (29 U.S.C. 762(b)(1)))

**§ 352.2 Who is eligible for assistance under this program?**

Those agencies and organizations eligible to apply under this program are described in 34 CFR 350.2.

(Sec. 204; (29 U.S.C. 762))

**§ 352.3 What regulations apply to this program?**

The regulations referenced in 34 CFR 350.3 apply to this program.

(Secs. 202 and 204; (29 U.S.C. 761a, 762))

**§ 352.4 What definitions apply to this program?**

The definitions listed in 34 CFR 350.4 apply to this program.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

### Subpart B—What Kinds of Activities Does the Department Assist Under This Program?

**§ 352.10 What types of centers are authorized under this program?**

(a) Rehabilitation research and training centers must be operated in collaboration with institutions of higher education and must be associated with a rehabilitation service setting which fosters a close working relationship between researchers service delivery personnel, and service recipients. Each center must conduct a program of research and training activities.

(b) The research to be conducted at each center shall be determined on the basis of the particular needs of handicapped individuals in the geographic area served by the center. It may include basic research, where related to identifiable rehabilitation techniques or services, and applied rehabilitation research; research regarding the medical, psychological, and social aspects of rehabilitation; and research related to vocational rehabilitation, independent living, and the rehabilitation of handicapped children and handicapped individuals aged sixty or older. Each center is encouraged to develop practical applications for all of its research findings.

(c) The purpose of training programs at a center is to disseminate and encourage the utilization of new rehabilitation knowledge, findings and techniques resulting from its research activities. These goals may be accomplished by introducing rehabilitation education into related University undergraduate and graduate curricula and by providing short-term, in-service and continuing education training programs to improve the skills of professionals, paraprofessionals, consumers, parents, and other personnel involved in rehabilitation.

(d) A center may use part of its grant funds to provide to handicapped individuals services that are connected with its research and training activities.

(Sec. 204(b)(1); (29 U.S.C. 762(b)(1)))

### Subpart C—[Reserved]

### Subpart D—How Does the Secretary Make a Grant?

**§ 352.30 How is peer review conducted under this program?**

Peer review is conducted under this program in accordance with 34 CFR 350.30-350.32.

(Sec. 202(e); (29 U.S.C. 761a(e)))

**§ 352.31 What selection criteria are used under this program?**

(a) *National need* (10 points). See § 350.34(a).

(b) *Program of the center* (30 points). (1) The Secretary reviews each application for information that shows the quality of the proposed center program.

(2) The Secretary looks for information that shows—(i) The degree to which the research and training activities of the center are based upon a group of related research core areas that help to meet the needs of the target population(s) it serves (6 of the 30 points);

(ii) The scientific validity of the center's methodological approach to conducting its research and training (6 of the 30 points);

(iii) The degree to which research results will be assessed in a service setting (6 of the 30 points);

(iv) The adequacy of procedures for disseminating research results (6 of the 30 points); and

(v) The degree to which the center will encourage the use of new knowledge, technology and devices in a variety of service settings (6 of the 30 points).

(c) *Plan of operation* (15 points). See 34 CFR 75.202.

(d) *Evaluation plan* (10 points). See 34 CFR 75.205.

(e) *Quality of key personnel* (10 points). See 34 CFR 75.203.

(f) *Adequacy of resources* (10 points). See 34 CFR 75.206.

(g) *Budget and cost effectiveness* (10 points). See 34 CFR 75.204.

(h) *Adequacy of consumer involvement* (5 points).

(1) The Secretary reviews each application for information that shows the adequacy of procedures for securing advice from and transmitting information to appropriate members of the rehabilitation community.

(2) The Secretary looks for information that shows—

(i) The nature and extent of communications with representatives of rehabilitation related public and voluntary agencies, labor, industry, consumers, State rehabilitation agencies, other appropriate agencies, and regional offices of RSA; and

(ii) The degree to which these communications can assist the center in identifying research and training priorities and in sharing the results of its research and training activities.

(The Secretary awards up to 100 possible points under these criteria)

(Secs. 202(e) and 202(i)(1); (29 U.S.C. 761a(e) and 761a(i)(1)))

### § 352.32 What are the priorities for funding under this program?

(a) The Secretary may from time to time reserve funds to support some or all of the types of centers listed in 34 CFR 352.10.

(b) The Secretary advises the public of these priorities through an Application Notice in the Federal Register.

(Secs. 202(g) and 204; (29 U.S.C. 761a(g) and 762))

## PART 353—HANDICAPPED RESEARCH: REHABILITATION ENGINEERING PROGRAM

### Subpart A—General

Sec.



### Subpart B—What Kinds of Activities Does the Department Support Under This Program?



### Subpart C—[Reserved]

### Subpart D—How Does the Secretary Make a Grant?



Authority: Title II of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended by Pub. L. 95-602 (29 U.S.C. 760-762; 92 Stat. 2962-2966)

### Subpart A—General

### § 353.1 What is the rehabilitation engineering program?

This program is designed to support—

(a) Development of innovative methods of applying advanced medical technology, scientific achievement, and psychiatric, psychological, and social knowledge to solve rehabilitation problems;

(b) Development of systems of technical and engineering information exchange and coordination; and

(c) Improvement in the distribution of technology devices and equipment to handicapped individuals.

(Secs. 200(3), 204(b)(2); (29 U.S.C. 760(3), 762(b)(2)))

### § 353.2 Who is eligible for assistance under this program?

Those agencies and organizations eligible to apply under this program are set forth in 34 CFR 350.2.

(Sec. 204; (29 U.S.C. 762))

### § 353.3 What regulations apply to this program?

The regulations referenced in 34 CFR 350.3 apply to this program.

(Secs. 202 and 204; (29 U.S.C. 761a and 762))

### § 353.4 What definitions apply to this program?

The definitions listed in 34 CFR 350.4 apply to this program.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

### Subpart B—What Kinds of Activities Does the Department Support Under This Program?

### § 353.10 What types of projects are authorized under this program?

The Rehabilitation Engineering Research program provides financial assistance for—

(a) Establishment and support of Rehabilitation Engineering Research Centers.

(i) Each center must be located in a clinical rehabilitation setting which fosters a close working relationship between researchers, service delivery personnel and service recipients;

(ii) Centers must cooperate with State and other appropriate agencies in developing systems of information exchange and coordination to promote the prompt utilization of research findings;

(iii) Centers may conduct research concerning the medical management of disabling conditions, the individual's adjustment to functional limitations and to the environment, service delivery systems, or other research of an engineering or technological nature, including basic research where related to rehabilitation techniques or services; and

(iv) The research activities of a center may address the rehabilitation problems of handicapped persons of any age.

(b) Research and demonstration projects of an engineering or technological nature as follows—

(i) Studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of handicapped individuals, and projects to reduce environmental barriers;

(ii) Cooperative research projects with public or private agencies and organizations to produce new equipment and devices for solving rehabilitation problems;

(iii) Projects concerning the use of existing telecommunication systems;

(iv) International research, demonstrations, training and exchange of experts and technical assistance when related to technology and engineering;

(v) A project to assess the feasibility of establishing a center to produce and distribute captioned video cassettes to deaf individuals; and

(vi) Joint projects with other Federal agencies and with private industry when related to technology or engineering.

(Secs. 204(b)(2), 204(a), 204(b)(5)-(7), 204(b)(10); (29 U.S.C. 762(b)(2), 762(a), 762(b)(5)-(7), 762(b)(10)))

### Subpart C—[Reserved]

### Subpart D—How Does the Secretary Make a Grant?

### § 353.30 How is peer review conducted under this program?

Peer review is conducted under this program in accordance with 34 CFR 350.30-350.32.

(Sec. 202(e); (29 U.S.C. 761a(e)))

### § 353.31 What selection criteria are used under this program?

(a) *National need* (20 points). See § 350.34(a).

(b) *Research design* (25 points). See § 350.34(b).

(c) *Plan of operation* (15 points). See 34 CFR 75.202.

(d) *Evaluation plan* (5 points). See 34 CFR 75.205.

(e) *Quality of key personnel* (10 points). See 34 CFR 75.203.

(f) *Adequacy of resources* (10 points). See 34 CFR 75.206.

(g) *Research utilization plan* (10 points). See § 350.34(g).

(h) *Budget and cost effectiveness* (5 points). See 34 CFR 75.204.

(The Secretary awards up to 100 possible points under these criteria)

(Secs. 202(e) and 202(i)(1); (29 U.S.C. 761a(e) and 761a(i)(1)))

§ 353.32 What are the priorities for funding under this program?

(a) The Secretary may from time to time reserve funds to support some or all of the types of research centers or projects listed in 34 CFR 353.10.

(b) The Secretary advises the public of these priorities through an Application Notice published in the Federal Register.

(Secs. 202(g) and 204; (29 U.S.C. 761a(g) and 762))

## PART 354—HANDICAPPED RESEARCH: MODEL RESEARCH AND TRAINING PROGRAM

### Subpart A—General

Sec.
354.1 What is the Model Research and Training Program?
354.2 Who is eligible for assistance under this program?
354.3 What regulations apply to this program?
354.4 What definitions apply to this program?

### Subpart B—What Kinds of Activities Does the Department Support Under This Program?

354.10 What types of centers are authorized under this program?

### Subpart C—[Reserved]

### Subpart D—How Does the Secretary Make a Grant?

354.30 How is peer review conducted under this program?
354.31 What selection criteria are used under this program?
354.32 What are the priorities for funding under this program?

Authority: Title II of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended by Pub. L. 95-602 (29 U.S.C. 760-762; 92 Stat. 2962-2966)

### Subpart A—General

§ 354.1 What is the model research and training program?

This program is designed to develop and utilize more advanced and effective methods of evaluating and developing the employment potential of handicapped individuals.

(Sec. 204(b)(12); (29 U.S.C. 762(b)(12)))

§ 354.2 Who is eligible for assistance under this program?

Those agencies and organizations eligible to apply under this program are set forth in 34 CFR 350.2.

(Sec. 204; (29 U.S.C. 762))

§ 354.3 What regulations apply to this program?

The regulations referenced in 34 CFR 350.3 apply to this program.

(Secs. 202 and 204; (29 U.S.C. 761a and 762))

§ 354.4 What definitions apply to this program?

The definitions listed in 34 CFR 350.4 apply to this program.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

### Subpart B—What Kinds of Activities Does the Department Support Under This Program?

§ 354.10 What types of centers are authorized under this program?

The model research and training program provides financial assistance for establishing and operating model training centers.

(a) Each center must be associated with a rehabilitation service setting which fosters a close working relationship between researchers, service providers and service recipients.

(b) Each model center must—

(1) Research and develop model procedures for testing and evaluating the employment potential of handicapped individuals;

(2) Research and develop model new approaches for job placement of handicapped individuals, including new follow-up procedures relating to such placement;

(3) Research and develop model training programs to teach handicapped individuals skills which will lead to appropriate employment;

(4) Provide training and continuing education to improve the skills of personnel involved with the employment of handicapped individuals; and

(5) Provide information services regarding education, training, employment and job placement for handicapped individuals.

(Sec. 204(b)(12); (29 U.S.C. 762(b)(12)))

### Subpart C—[Reserved]

### Subpart D—How Does the Secretary Make a Grant?

§ 354.30 How is peer review conducted under this program?

Peer review is conducted under this program in accordance with 34 CFR 350.30-350.32.

(Sec. 202(e); (29 U.S.C. 761a(e)))

§ 354.31 What selection criteria are used under this program?

(a) *National need* (10 points). See § 350.34(a).

(b) *Program of the center* (30 points).

(1) The Secretary reviews each application for information that shows the quality of the proposed center program.

(2) The Secretary looks for information that shows—

(i) The degree to which the research and training activities of the center are based upon a group of related research core areas that help to meet the needs of the target population(s) it serves (6 of the 30 points);

(ii) The scientific validity of the center's methodological approach to conducting its research and training (6 of the 30 points);

(iii) The degree to which research and training results will be assessed in a service setting (6 of the 30 points);

(iv) The adequacy of procedures for disseminating research results and training materials (6 of the 30 points); and

(v) The capability of the center to provide information services regarding the education, training, employment, and job placement of handicapped individuals (6 of the 30 points).

(c) *Plan of operation* (15 points). See 34 CFR 75.202.

(d) *Evaluation plan* (10 points). See 34 CFR 75.205.

(e) *Quality of key personnel* (10 points). See 34 CFR 75.203.

(f) *Adequacy of resources* (10 points). See 34 CFR 75.206.

(g) *Budget and cost effectiveness* (10 points). See 34 CFR 75.204.

(h) *Adequacy of consumer involvement* (5 points). See § 352.31(h).

(The Secretary awards up to 100 possible points under these criteria)

(Secs. 202(e) and 202(i)(1); (29 U.S.C. 761a(e) and 761a(i)(1)))

§ 354.32 What are the priorities for funding under this program?

(a) The Secretary may from time to time reserve funds to support the types of research activities listed in 34 CFR 354.10(b).

(b) The Secretary advises the public of these priorities through an Application Notice published in the Federal Register.

(Secs. 202(g) and 204; (29 U.S.C. 761a(g) and 762)).

## PART 355—HANDICAPPED RESEARCH: KNOWLEDGE DISSEMINATION AND UTILIZATION

### Subpart A—General

Sec.
355.1 What is the Knowledge Dissemination and Utilization Program?
355.2 Who is eligible for assistance under this program?
355.3 What regulations apply to this program?
355.4 What definitions apply to this program?

Authority: Title II of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended by Pub. L. 95-602 (29 U.S.C. 760-762; 92 Stat. 2962-2966)

## Subpart A—General

### § 355.1 What is the Knowledge Dissemination and Utilization Program?

This program is designed to support activities that will insure that rehabilitation knowledge generated from projects and centers funded by the Institute and from other sources is fully utilized to improve the lives of handicapped persons.

(Secs. 202, 204(a), and 204(b)(5); (29 U.S.C. 761a, 762(a) and 762(b)(5)))

### § 355.2 Who is eligible for assistance under this program?

Those agencies and organizations eligible to apply under this program are described in 34 CFR 350.2.

(Sec. 204; (29 U.S.C. 762))

### § 355.3 What regulations apply to this program?

The regulations referenced in 34 CFR 350.3 apply to this program.

(Secs. 202 and 204; (29 U.S.C. 761a and 762))

### § 355.4 What definitions apply to this program?

The definitions listed in 34 CFR 350.4 apply to this program.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

## Subpart B—What Kinds of Activities Does the Department Support Under This Program?

### § 355.10 What types of activities are authorized under this program?

The knowledge dissemination and utilization program provides financial assistance for the following types of projects—

(a) Domestic or international research utilization;

(b) Domestic or international information dissemination activities;

(c) Building public awareness about ways of rehabilitating handicapped persons;

(Secs. 200(2), 202(b)4-6, 204(a), 204(b)(5); (29 U.S.C. 761a(b)(2), 761a(b) (4-6), 762(a), 762(b)(5)))

## Subpart C—[Reserved]

## Subpart D—How Does the Secretary Make a Grant?

### § 355.30 How is peer review conducted under this program?

Peer review is conducted under this program in accordance with 34 CFR 350.30-350.32.

(Sec. 202e; (29 U.S.C. 761a(e))

### § 355.31 What selection criteria are used under this program?

(a) *National need* (20 points). See § 350.34(a).

(b) *Project design* (30 points).

(1) The Secretary reviews each application for information that shows the quality of the project design.

(2) The Secretary looks for information that shows—

(i) A linkage system to prospective target populations (5 of the 30 points);

(ii) Need assessment procedures (10 of the 30 points);

(iii) That rehabilitation knowledge or devices will be adapted or modified to facilitate greater understanding and use by the rehabilitation community (5 of the 30 points); and

(iv) Procedures for dissemination of the rehabilitation knowledge or devices referred to in paragraph (b)(2)(iii) of this section (10 of the 30 points).

(c) *Plan of operation* (15 points). See 34 CFR 75.202.

(d) *Evaluation plan* (10 points). See 34 CFR 75.205.

(e) *Quality of key personnel* (10 points). See 34 CFR 75.203.

(f) *Adequacy of resources* (10 points). See 34 CFR 75.206.

(g) *Budget and cost effectiveness* (5 points). See 34 CFR 75.204.

(The Secretary awards up to 100 possible points under these criteria)

### § 355.32 What are the priorities for funding under this program?

(a) The Secretary may from time to time reserve funds to support some or all of the types of projects listed in 34 CFR 355.10.

(b) The Secretary advises the public of these priorities through an Application Notice published in the Federal Register.

(Secs. 202(g) and 204; (29 U.S.C. 761a(g) and 762))

# PART 356—HANDICAPPED RESEARCH: RESEARCH FELLOWSHIPS



Authority: Title II of the Rehabilitation Act of 1973 (Pub. L. 93-112) as amended by Pub. L. 95-602 (29 U.S.C. 760-762; 92 Stat. 2962-2966)

## Subpart A—General

### § 356.1 What is the Research Fellowships Program?

The purpose of this program is to obtain the assistance of highly qualified individuals to perform research activities in rehabilitation.
(Sec. 202(d); (29 U.S.C. 761a(d)))

### § 356.2 Who is eligible for assistance under this program?

Any person is eligible for assistance under this program who has training and experience that indicate a potential for engaging in scientific research related to the solution of rehabilitation problems of handicapped persons.

(Sec. 202(d); (29 U.S.C. 761a(d)))

**§ 356.3 What regulations apply to this program?**

The following regulations apply to this program:

(a) The peer review requirements contained in 34 CFR 350.31–350.32.

(b) The regulations in this part—34 CFR Part 356; and

(c) 45 CFR Part 46 (Protection of Human Subjects)

(Sec. 202(d); (29 U.S.C. 761a(d)))

**§ 356.4 What definitions apply to this program?**

The definitions listed in 34 CFR 350.4 apply to this program.

(Sec. 202(i)(1); (29 U.S.C. 761a(i)(1)))

## Subpart B—What Kinds of Activities Does the Department Support Under This Program?

**§ 356.10 What types of activities are authorized?**

Research fellowships provide awards of Federal assistance to enable individuals to carry out discrete research activities which have been identified in Application Notices published in the Federal Register.

(Sec. 202(d); (29 U.S.C. 761a(d)))

**§ 356.11 What types of problems may be researched under the fellowship program?**

Problems encountered by handicapped persons in their daily lives that are due to the presence of handicapping condition, problems associated with the provision of rehabilitation services to handicapped persons, and problems connected with the conduct of handicapped research may be addressed under this program.

(Sec. 202(d), 202(g)(1), 204; (29 U.S.C. 761a(d), 761a(g)(1), 762))

## Subpart C—How Does One Apply for Assistance Under This Program?

**§ 356.20 What are the application procedures under this Part?**

From time to time the Secretary will publish in the Federal Register an Application Notice that announces the availability of fellowship assistance under this Part.

(Sec. 202(d); (29 U.S.C. 761a(d)))

**§ 356.21 What is the fellowship review process?**

Fellowship applications will be reviewed in accordance with the peer review requirements governing grants in 34 CFR 350.30–350.32.

(Sec. 202(d); (29 U.S.C. 761a(d)))

## Subpart D—How Does the Secretary Select a Fellow?

**§ 356.30 What selection criteria are used for this program?**

Individuals applying for a research fellowship will be evaluated on the basis of—

(a) Quality and level of formal education;

(b) Work experience; and

(c) Recommendations of former or present supervisors or colleagues and other independent evidence that indicate an ability to work creatively in scientific research.

(Sec. 202(d); (29 U.S.C. 761a(d)))

## Subpart E—What Conditions Have To Be Met by a Fellow?

**§ 356.40 What is the length of a fellowship award?**

Fellowships may be approved for a maximum of 48 months. The initial award may be for any period not to exceed 12 months. If the Secretary determines that there is satisfactory progress in accomplishing the purposes of the fellowship, the Secretary may make one or more continuation awards.

(Sec. 202(d); (29 U.S.C. 761a(d)))

**§ 356.41 What are the employment limitations during a fellowship period?**

The Secretary may require a research fellow to work full time on authorized fellowship activities.

(Sec. 202(d); (29 U.S.C. 761a(d)))

**§ 356.42 What acknowledgement of support is required?**

Publication, distribution, and disposition of all manuscripts and other materials resulting from a fellowship awarded under this Part must acknowledge that assistance was received from the Department and the Institute. Three copies of these publications or other materials must be furnished to the Secretary.

(Sec. 202(d); (29 U.S.C. 761a(d)))

## Subpart F—What are the Administrative Responsibilities of a Fellow?

**§ 356.50 What kinds of payments are allowed under this program?**

A fellowship award may include the following payments:

(a) A stipend in an amount authorized by the Secretary;

(b) A health insurance allowance;

(c) Travel and transportation expenses as follows—

(1) Round trip travel, for the fellow only, from place of residence to the location of fellowship activity.

(2) No allowance will be granted for transporting dependents, except for travel undertaken by dependents to join a fellow who is located during the period of fellowship activity in a country other than his or her country of residence. "Dependent" means the spouse or dependent children of a fellow.

(d) The Secretary may authorize allowances for payment of the following expenses—tuition, fees, supplies, attendance at meetings required to carry out the purpose of the fellowship, or other related expenses of the fellowship.

(Sec. 202(d); (29 U.S.C. 761a(d)))

**§ 356.51 What program reports are required?**

Fellows are required to submit annual and final reports (along with work plans for the next fellowship period if applicable). Each report must contain as a minimum an analysis of the significance of the project and an assessment of the degree to which the objectives of the project have been achieved.

(Sec. 202(d); (29 U.S.C. 761a(d)))

# PART 362—PROJECT GRANTS AND OTHER ASSISTANCE IN VOCATIONAL REHABILITATION

## Subpart D—Rehabilitation Research

§§ 362.60–362.66 [Removed]

[FR Doc. 81-26453 Filed 9-9-81; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF EDUCATION

### National Institute of Handicapped Research; Applications for Fiscal Year 1982 Rehabilitation Engineering Center Grants

**AGENCY:** Department of Education.

**ACTION:** Application Notice for Fiscal Year 1982.

Applications are invited for new Rehabilitation Engineering Center grants for fiscal year 1982 under the National Institute of Handicapped Research.

Authority for this program is contained in Section 204(b)(2) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 (29 U.S.C. 762 (b)(2)).

Awards are made under this program to States and public or private agencies and organizations, including institutions of higher education.

The purpose of this program is the establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and psychiatric, psychological, and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with State agencies designated pursuant to section 101 (of the Act) in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

*Closing Date for Transmittal of Applications:* Applications for grant awards must be mailed or hand delivered by November 9, 1981.

*Applications Delivered by Mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, *Attention:* 84.133, Washington, D.C. 20202.

An applicant must show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with his local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered. Amendments received after the closing date also will not be considered in the review of the application.

*Applications Delivered by Hand:* An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building No. 3, 7th and D Streets, SW., Washington, D.C. 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

*Available Funds:* The proposed funding level for the National Institute of Handicapped Research is expected to be approximately $26,250,000 for fiscal year 1982. Approximately $5,660,000 of this amount is expected to be available for funding approximately 11 new Rehabilitation Engineering Research Center grants under this announcement. However, actual availability of funding will be determined by the fiscal year 1982 appropriation. Average funding for each Center will be approximately $500,000 depending on the scope of approved research activities within the Center. Each Center will be funded for a one year period.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

*Application Forms:* Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building 3511, 400 Maryland Avenue, SW., Washington, D.C. 20202. (Attention: Peer Review Unit); 202/472-6551.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. Applicants are urged not to submit information that is not requested.

*Applicable Regulations:* Regulations governing the program include the following:

(A) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77; formerly 45 CFR Parts 100a and 100c); and

(B) National Institute of Handicapped Research Regulations (34 CFR Parts 350, 351, 352, 353, 354, 355, and 356).

Applicants for fiscal year 1982 grants should base their applications on Section 204(b)(2) of the Act, NIHR regulations and EDGAR.

*Further Information:* For further information contact Ms. Deborah Linzer, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building 3511, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: 202/472-6551.

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: September 3, 1981.

T. H. Bell,

*Secretary of Education.*

[FR Doc. 81-26393 Filed 9-9-81; 8:45 am]

BILLING CODE 4000-01-M

### National Institute of Handicapped Research; Applications for Fiscal Year 1982 Research and Training Center Grants

**AGENCY:** Department of Education.

**ACTION:** Application Notice for Fiscal Year 1982.

Applications are invited for new Research and Training Center grants for fiscal year 1982 under the National Institute of Handicapped Research.

Authority for this program is contained in Section 204 (b)(1) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 (29 U.S.C. 762 (b)(1)).

Awards are made under this program to States and public or private agencies and organizations including institutions of higher education.

The purpose of this program is the establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of (A) providing training (including graduate training), (B) providing coordinated and advanced

programs of research in rehabilitation, and (C) providing training (including graduate training) for rehabilitation research and other rehabilitation personnel.

*Closing Date for Transmittal of Applications:* Applications for grant awards must be mailed or hand delivered by November 9, 1981.

*Applications Delivered by Mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, *Attention:* 84.133, Washington, D.C. 20202.

An applicant must show proof of mailing, consisting of one of the following:

() A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with his local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered. Amendments received after the closing date also will not be considered in the review of the application.

*Applications Delivered by Hand:* An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW, Washington, D.C. 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

*Program Information:* During fiscal year 1982 the National Institute of Handicapped Research expects to fund up to ten Research and Training Centers which have an identified core area of applied medical rehabilitation research; up to three Research and Training Centers which have an identified core area of vocational rehabilitation research; and, up to four Research and Training Centers which have an identified core area of psychological and social aspects of rehabilitation.

*Available Funds:* The proposed funding level for the National Institute of Handicapped Research is expected to be approximately $26,250,000 for fiscal year 1982. Approximately $11,225,000 of this amount is expected to be available for funding up to 17 new Research and Training Center grants under this announcement. However, actual availability of funding will be determined by the fiscal year 1982 appropriation. Average funding for each Center will be approximately $675,000 depending on the scope of approved research and training activities within the Center. Each Center will be funded for a one-year period.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

*Application Forms:* Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Rm. 3511, 400 Maryland Avenue, SW, Washington, D.C. 20202. (Attention: Peer Review Unit); 202/472-6551.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. Applicants are urged not to submit information that is not requested.

*Applicable Regulations:* Regulations governing the program include the following:

(A) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77; formerly 45 CFR Parts 100a and 100c); and

(B) National Institute of Handicapped Research Regulations (34 CFR Parts 350, 351, 352, 353, 354, 355, and 356).

Applicants for fiscal year 1982 grants should base their applications on Section 204(b)(1) of the Act, NIHR regulations and EDGAR.

*Further Information:* For further information, contact Ms. Deborah Linzer, National Institute of Handicapped Research U.S. Department of Education, Switzer Office Building, Rm. 3511, 400 Maryland Avenue, SW, Washington, D.C. 20202. Telephone: 202/472-6551.

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: September 3, 1981.

T. H. Bell,

*Secretary of Education.*

[FR Doc. 81-26334 Filed 9-9-81; 8:45 am]

BILLING CODE 4000-01-M

## National Institute of Handicapped Research; Applications For Noncompeting Continuation Projects For Fiscal Year 1982

**AGENCY:** Department of Education.

**ACTION:** Application Notice for Noncompeting Continuation Projects for Fiscal Year 1982.

Applications are invited for noncompeting continuation projects for fiscal year 1982 under the National Institute of Handicapped Research.

Authority for this program is contained in Section 204 of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 (29 U.S.C. 762).

Under this program awards are issued to States and public or private agencies and organizations, including institutions of higher education.

The purpose of the awards is planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational and other rehabilitation services to handicapped individuals, especially those with the most severe handicaps.

*Closing Date for Transmittal of Applications:* To be assured of consideration for funding, applications for a noncompeting continuation award should be mailed or hand delivered no later than 90 days prior to the end of the current budget period.

If the application is late, the Department of Education may lack sufficient time to review it and may decline to accept it.

*Applications Delivered by Mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, *Attention:* 84.133, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying n this method, an applicant should heck with its local post office.

An applicant is encouraged to use egistered or at least first class mail.

*Applications Delivered by Hand:* An pplication that is hand delivered must e taken to the U.S. Department of ducation, Application Control Center, oom 5673, Regional Office Building #3, th and D Streets, SW., Washington, .C.

The Application Control Center will ccept a hand delivered application etween 8:00 a.m. and 4:30 p.m. Washington, D.C., time) daily, except aturdays, Sundays, and Federal olidays.

*Available Funds:* The funding level for ie National Institute of Handicapped esearch is expected to be pproximately $26,250,000 for fiscal year 1982. Approximately $6,380,000 of this amount is expected to be available for funding 26 noncompeting continuation projects. However, actual availability of funding will be determined by the fiscal year 1982 appropriation. Average funding for each project will be approximately $258,000 depending on the scope of approved research activities.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

*Application Forms:* Application forms will be mailed to applicants approximately 90 days before applications are due.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. Applicants are urged not to submit information that is not requested.

*Applicable Regulations:* Regulations governing the program include the following:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77; formerly 45 CFR Parts 100a and 100c); and

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350, 351, 352, 353, 354, 355, and 356).

Applicants for fiscal year 1982 noncompeting continuation projects should base their applications on Section 204 of the Act, NIHR regulations and EDGAR.

*Further Information:* For further information, contact Ms. Deborah Linzer, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Rm. 3511, 400 Maryland Avenue, SW., Washington, D.C. 20202-2305. Telephone: 202/472-6551.

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: September 3, 1981.

T. H. Bell,

*Secretary of Education.*

[FR Doc. 81-26395 Filed 9-9-81; 8:45 am]

BILLING CODE 4000-01-M

Federal Register

Thursday
September 10, 1981

Part IV

# Department of Transportation

## Saint Lawrence Seaway Development Corporation

## Tariff of Toll; Revision

## DEPARTMENT OF TRANSPORTATION

## Saint Lawrence Seaway Development Corporation

## 33 CFR Part 402

## Tariff of Tolls; Proposed Revision

**AGENCY:** Saint Lawrence Seaway Development Corporation, Transportation.

**SUMMARY:** The Saint Lawrence Seaway Development Corporation, United States, and the St. Lawrence Seaway Authority, Canada, propose to revise the tariff of tolls which they establish and administer jointly. The proposed action would raise the level of tolls assessed on all commodities and vessels which transit the Montreal to Lake Ontario section of the Seaway and would reintroduce a lockage fee at the Welland Canal section. The increases are proposed for both the 1982 and the 1983 navigation seasons and are necessary because of the increased costs being encountered by both Seaway agencies as a result of inflation encountered over the past few years in both countries.

Under the proposed toll agreement the U.S. Corporation will continue to receive 29% of revenues generated on the Montreal to Lake Ontario section.

**DATES:** Public comments and hearing: The Corporation invites comments on the proposed revision to the Tariff of Tolls from any interested persons or organizations. Any party wishing to present views or data on the proposed revision may file comments with the Corporation on or before October 23, 1981. Public hearing October 2, 1981 at 10:00 a.m. EDT.

**ADDRESS:** The Corporation will hold a public hearing on the rates of tolls in Room 301, 800 Independence Ave., Washington, D.C., on October 2, 1981 beginning at 10:00 a.m. EDT. The hearing will run until concluded subject to adjournment from day to day or otherwise at the discretion of the Administrator. Oral presentations will be limited to 15 minutes. Persons or organizations desiring to present testimony at the hearing shall submit to the Corporation on or before September 25, 1981, a written notice of their intention to appear. If the public hearing is continued to a date later than October 13, 1981, the date by which written comments are to be filed will be extended to 10 days following the actual close of the hearing.

It is requested that data provided in written comments or at the hearing include total transportation costs for the movements of cargo via the St. Lawrence Seaway and should detail individually all pertinent components thereof including all inland freight costs (rail, truck or water), terminal or elevator charges and handling costs ocean freight costs, and other significant transportation costs. It would be helpful if each analysis also detailed similar transportation costs by alternative routes in order to adequately evaluate the potential for diversion.

Notices of appearance, views, data, comments and supplementary statement may be submitted to the Saint Lawrence Seaway Development Coporation, 800 Independence Avenue, SW, Washington D.C. 20591 (Attention: Tolls Revision Docket).

**SUPPLEMENTARY INFORMATION:** In 1982 the average cost of moving a ton of cargo through the Montreal to Lake Ontario Section of the Seaway will increase about 15 percent; the average cost per ton through the Welland Canal Section, approximately 21 percent; with a resulting increase for traffic transiting both sections of about 18 percent per ton. In 1983 the average cost per ton will increase an additional 8 per percent on the Montreal to Lake Ontario Section, 14 percent on the Welland Canal Section, or about 10 percent for combined transit.

The Corporation projects its revenues as a result of the proposed modifications to total about $13.1 million in 1982 and $15.7 million in 1983. This should provide the Corporation with sufficient revenue to meet its total cost of operations, maintenance and other current expenses as well as meet scheduled bond repayments for the period 1981 through 1983. The Corporation is required by statute to recover these costs from tolls assessed on the vessels and cargoes moving through its facilities.

In June of 1981 the Joint Tolls Review Board, provided for in the 1978 U.S.-Canada Seaway Tolls Agreement, recommended to the heads of the Seaway agencies of the two countries a 30 percent across-the-board increase to take effect September 1, 1981. On June 11, 1981 the Corporation published in the Federal Register a request for comments on the Board's report.

In mid-July, U.S. Secretary of Transportation Drew Lewis and Canadian Transport Minister Jean-Luc Pepin announced that the Seaway agencies had agreed to defer any Seaway toll increases until 1982 because of maritime industry concerns over increased costs during 1981 and the disturbance of contractual arrangements involving prior vessel bookings made for 1981. At the same time, it was noted that resulting 1981 revenue shortfall was expected to be recovered during 1982 and 1983.

### The Proposal

The Corporation and the Authority have agreed, for the purpose of eliciting public comment, to propose a revision of the charges in the Tolls Schedule of the Joint St. Lawrence Seaway Tariff of Tolls. The proposal will be subjected to subsequent joint review.

It is proposed that the Tolls Schedule for the Montreal to Lake Ontario Section (presently codified as 33 CFR 402.7) be revised as follows (for comparison purposes the rates presently in effect are included):

**Montreal-Lake Ontario Section**

| | Present | 1982 | 1983 |
|---|---|---|---|
| Commodities, per metric ton (full transit): | | | |
| Bulk | $0.68 | $0.79 | $0.85 |
| Containerized Cargo | 0.68 | 0.79 | 0.85 |
| Government Aid Cargo | 0.41 | 0.48 | 0.52 |
| Food Grains | 0.41 | 0.48 | 0.52 |
| Feed Grains | 0.41 | 0.48 | 0.52 |
| General Cargo | 1.65 | 1.91 | 2.06 |
| Vessel Charge, per gross registered ton (full transit) | 0.07 | 0.075 | 0.08 |
| Passengers, each per lock | 0.75 | 1.00 | 1.00 |
| Pleasure craft, per lock | 4.00 | 5.00 | 5.00 |
| Other vessels, per lock | 8.00 | 10.00 | 10.00 |

For the Welland Canal Section, it is proposed that the commodity tolls and vessel charge which are presently in effect will remain unchanged, but a lockage charge will be introduced. The present commodity tolls are (per metric ton): Bulk, $0.31; Containerized cargo, $0.31; Government aid cargo, $0.31; Food Grains, $0.31; Feed grains, $0.31; General cargo, $0.50 and a vessel charge of $0.07 per gross registered ton.

The lockage charge to be introduced on the Welland Canal for loaded vessels will be $150 per lock in 1982 and $250 per lock in 1983; for vessels in ballast the charge will be $75 per lock in 1982 and $187.50 per lock in 1983. The Welland Canal contains eight locks at which this charge will be assessed.

Other increases proposed for the Welland Canal are an increase in the charge per passenger from $0.75 per passenger per lock to $1.00 per passenger per lock; and increase in the charge for pleasure craft from $4.00 per lock to $5.00 per lock; and an increase in the charge for other vessels from $8.00 per lock to $10.00 per lock.

At both the Montreal to Lake Ontario and Welland Canal Sections, the tolls which become effective in 1983 will remain in effect until further modified by the Corporation and the Authority.

The Saint Lawrence Seaway Development Corporation has determined that EO 12291 does not

apply to this rulemaking since the rule involves a foreign affairs function of the United States. After review of the law and the regulations, the Administrator, Saint Lawrence Seaway Development Corporation, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354) will not have a significant impact on a substantial number of small entities.

Issued in Washington, D.C., on September 4, 1981.

D. W. Oberlin,

*Administrator.*

[FR Doc. 81-26414 Filed 9-9-81; 8:45 am]

BILLING CODE 4910-61-M

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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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| DOT/FRA | USDA/REA | | DOT/FRA | USDA/REA |
| DOT/MA* | MSPB/OPM | | DOT/MA* | MSPB/OPM |
| DOT/NHTSA | LABOR | | DOT/NHTSA | LABOR |
| DOT/RSPA | HHS/FDA | | DOT/RSPA | HHS/FDA |
| DOT/SLSDC | | | DOT/SLSDC | |
| DOT/UMTA | | | DOT/UMTA | |
| CSA | | | CSA | |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

*Note: The Maritime Administration will begin Mon./Thurs. publication as of Oct. 1, 1981.
**Note: As of September 14, 1981, documents received from Food Safety and Inspection Service (formerly Food Safety and Quality Service) will no longer be assigned to the Tues./Fri. publication schedule.

## REMINDERS

### List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 26, 1981

## THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

**FOR:** Any person who uses the Federal Register and Code of Federal Regulations.

**WHO:** The Office of the Federal Register in cooperation with Lexington Technical Institute.

**WHAT:** Special public briefing (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

**WHEN:** September 17 at 9:00 a.m.

**WHERE:** Room 215, Lexington Technical Institute, Cooper Drive, Lexington, Ky.

**RESERVATIONS:** Call Martha Birchfield, (606) 258-4919.